



Transcript of Proceedings

CRIME AND MISCONDUCT COMMISSION

MR R NEEDHAM, Chairman

No 5 of 2005

PUBLIC HEARING INTO GOLD COAST
CITY COUNCIL

BRISBANE

..23/11/2005

..DAY 22

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

THE HEARING RESUMED AT 10.07 A.M.

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MR MULHOLLAND: Good morning, Mr Chairman. Before we commence today there is something that I should say in relation to an article which appeared in The Australian yesterday. The article is headed "Whistleblowers Threatened" and it is based upon information provided to The Australian by Councillor and Deputy Mayor David Power, and the - what the article says, and I'm not going to read the whole of it, but it refers to accusations as it is put, by Councillors Dawn Crichlow, Peter Young and Eddie Sarroff, and quoting Mr Power it says, "Council will be forced to consider prosecution of these three for official misconduct."

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Now, the first thing I wish to say in relation to that is that the only body which has the power to consider whether or not there is a prosecution for official - or the question of official misconduct is the Crime and Misconduct Commission. That's the first thing.

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I also want to draw attention to - and this has already been done - but it is appropriate in these circumstances that people are again reminded of the provisions of the Crime and Misconduct Act of 2001 and in particular sections 211 and 212. Section 211 provides for an offence in relation to an injury or detriment to a witness and section 212 provides for an offence of victimisation in relation to a person concerning a person who gave evidence to or helped the Commission in the performance of its functions.

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In addition to those two provisions, it's timely that people are reminded of section 335 subsection 3 of the Act which provides that in a proceeding for defamation there is a defence of absolute privilege for a publication to or by the Commission or a Commission officer made for the purpose of performing the Commission's functions. Having said that, people should understand generally that they should not be deterred from providing information to the Commission in the performance of the Commission's functions and that provisions exist which allows action to be taken against persons who commit the offences to which I have referred.

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Now, you, Mr Chairman, have said I think on more than one occasion, made reference to such offences, but having regard to the article which has been published, it is appropriate that I say what I have said this morning, and I say more generally that it would seem undesirable for any person to be commenting publicly on the outcome of this investigation. That would be undesirable. Certainly it would be undesirable for a person holding a public office to do so. This investigation is continuing, it has not concluded, no report has been published and in those circumstances people, particularly public officials, should allow this inquiry to complete its work and to make its report.

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CHAIRMAN: Yes, thank you for that, Mr Mulholland. I agree with your comments. They are appropriate comments in the circumstances that apply here. I have seen that article in The Australian. I must say I was surprised at the naivety of a person such as the Deputy Mayor of the Gold Coast City Council to be making the comments that he did, the fact of the ignorance of the law that was disclosed by them and the naivety of making such a comment about a witness before this Commission, a witness who is making appropriate allegations that need to be investigated by this particular hearing. I endorse what you have said. I would suggest that - I note Councillor Power's representatives are not - yes, Mr Nyst.

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MR NYST: I am.

CHAIRMAN: Mr Nyst, it might be appropriate for you to give some legal advice or perhaps Mr Temby to give some legal advice to your client to ensure that he understands what is in his best interest in this particular case.

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MR NYST: I just say that I agree with all that Mr Mulholland said in that respect. I'll raise it with Mr Power today.

CHAIRMAN: Thank you.

MR MULHOLLAND: I call Edward Lloyd Shepherd.

EDWARD LLOYD SHEPHERD, SWORN AND EXAMINED:

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MR MULHOLLAND: Is your full name Edward Lloyd Shepherd?-- Yes, it is.

Mr Shepherd, do you appear today under an attendance notice?-- Yes, I do.

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

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I tender the attendance notice dated 19th September 2005.

CHAIRMAN: That will be Exhibit 279.

ADMITTED AND MARKED "EXHIBIT 279"

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MR MULHOLLAND: Mr Shepherd, were you also served with a notice to discover by the Commission?-- Yes, I was.

And did you in response provide a letter of 26th August 2005 to the Commission attaching statements and relevant

information in response to that notice?-- Yes. I'm not - I'd need to see the document to confirm the date, but yes.

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Yes, all right. Well, just have a look first of all at the notice to discover. Can you confirm that that is the notice?-- Yes, it is.

And would you now look at this material comprising the letter of 26th August 2005 together with statements and other documents?-- Mr Mulholland, the only hesitation I have here is that there was some intervening correspondence where in fact I asked for an extension and that extension was granted.

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If you'd just look at the material that I've provided you with, I think you'll see that it contains all of the material, but just check that it has, that we haven't missed out anything. If there is correspondence - I'm not saying that there's any correspondence in relation to an extension of time is there, I'm just saying that that is all of the documentation, just confirm that so far as you can see that that is the documentation?-- Yes, as far as I can see that is all the documentation that I provided, yes.

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Right. I tender that material, Mr Chairman?-- Thank you.

CHAIRMAN: That's Exhibit 280.

ADMITTED AND MARKED "EXHIBIT 280"

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MR MULHOLLAND: Mr Chairman, Mr Radcliff is going to take Mr Shepherd now.

MR RADCLIFF: Thank you, Mr Chairman.

CHAIRMAN: Yes, Mr Radcliff.

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WITNESS: Mr Chairman, if I may before - before counsel starts, can I offer a statement in regard to your comments and Counsel Assisting's comments.

CHAIRMAN: This morning?

WITNESS: Yes.

CHAIRMAN: I'd prefer you not to, I'd prefer you to check that through your representative first as to whether it's appropriate.

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WITNESS: Mr Chairman, it's just that the reputation of a councillor who is a colleague was drawn into the question.

CHAIRMAN: Well, your colleague that you're talking about is represented here by Mr Nyst. If Mr Nyst felt it necessary to make any comments, he would have done so. Mr Power will have

his turn in the witness box and he can make his comments then. No, I don't feel it's necessary to receive any comment from you supporting Mr Power on that point. Thank you, Mr Radcliff.

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MR RADCLIFF: Mr Chairman, I might take a brief adjournment after I finish his evidence-in-chief to take instructions on this point, and then I'll ask the appropriate questions if they're relevant.

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CHAIRMAN: Thank you.

MR RADCLIFF: Thank you. Councillor Shepherd, do you still have your disclosure documents, Exhibit 280 before you?-- No, I don't.

Well, would you look at this copy of the document? I just want to go through a couple of sections of it to make sure because I understand that there might be some slight errors and there might be some changes we need to make in respect of it. Councillor Shepherd, if you look at the third page in with the heading "Dot Point 2", you indicate there at the first - I'm sorry, the second paragraph:

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"I have had no dealings or campaign meetings with Lionel Barden whatsoever, and, therefore, no documentation is available."

And later in the document you also say under "Statement of Information Item 4 Dot Point 1":

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"Regarding Mr Lionel Barden, my wife and I have met Mr Barden and his wife on several occasions at council-related functions and socially at private functions perhaps twice. We never met to discuss campaign issues relating to myself or any other candidate. We have never discussed the establishment of a financial trust to assist candidates, nor did I participate in the creation of a trust or receive any funding from a trust."

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We have heard that - from Mr Barden, and for those with a transcript, at page 1152 he tells us that he, in fact, assisted him for a couple of hours of the election by handing out how to vote cards. Can you tell us about that and how that came to occur?-- Certainly. I was unaware of it at the time that I made the statement to the CMC. With my particular division, it's a very large division that has many polling places within that division, and I have a friend who operates as campaign co-ordinator for booth workers-----

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Yes?-- -----and I understand that Mr and Mrs Barden contacted him, offered their services and I think they handed out how to vote cards for a two hour period on the day of the election, but that's the only involvement.

So that was - they did that voluntarily?-- Absolutely.

By way of communication with a member of your campaign committee-----?-- That's right.

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-----and they didn't contact you at all?-- No.

And this is something that's come up as a consequence of the evidence that we've heard here?-- Mmm-hmm.

And you - so could that be noted, Mr Chairman, that there's that error?

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CHAIRMAN: Certainly.

MR RADCLIFF: Secondly, you - in your document talk about - on page 4 under dot point 3 you, in the third - fourth paragraph talk about a meeting to which you were invited at the offices of Quadrant, and you say that that meeting occurred during October 2003. Since the Commission has commenced, had you come to be now of the belief that that meeting occurred in December?-- Yes, thank you, Mr Radcliff. The reason, Mr Chairman, that I mentioned the correspondence between myself and the CMC is that when I received the correspondence first I was away at a conference in North Queensland and needed an extension of time, so the moment I got back, it was very rushed to try and get the statement in. In doing so, I simply put in what I could recollect was the period of time, and I put "October." I have seen the transcripts and the evidence and certainly would understand it, it was now the 16th of December. I have no problems with that date. It's simply just a matter that at that particular function I didn't put a lot of credibility into it, and therefore I went through my diary. There was no mention of it, so I wasn't sure of the date.

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In fact, another thing that has prompted your memory in relation to that is this Exhibit 14. I don't require it to be taken out. But you've seen Exhibit 14 before, haven't you?-- Yes, I have.

All right. Okay. Well, we'll deal with that later in your evidence. Now, if we could deal first of all with respect to - in your document you detail those who have provided donations to you, and that's on page 1 of the notice to discover statement of information. Those are the people who provided donations to you for your election campaign?-- That's correct.

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There is one entry there, "WK Group arrived anonymously. Identify unknown"?-- Mmm-hmm.

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Tell us about that. How did it come to be received by you?-- That arrived in the mail.

Yes?-- It had no return address on the back of the envelope-----

Yes?-- -----and we unfortunately saw that as a donation to the campaign and banked the cheque into the campaign account. We maintain an individual account for campaign receipts.

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Now, had you come - at the time of the providing your return in accordance with the Act, did you make such inquiries as you could as to the identity of this person and their address?-- Yes. We looked in the telephone book. We also looked in - up company records. We couldn't find them. We just presumed it was a donor who wanted to support the campaign. I certainly don't know an L Walker from the WK Group. I've never met them, I have no association with them, and, at the time, we simply banked it into the account.

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Yes. Now-----

CHAIRMAN: Is that was what was on the cheque, was it, "L Walter"?-- Trading as WK Group.

I see.

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MR RADCLIFF: Now, in recent days you've come to take advice from me concerning section 428 of the Act-----?-- Mmm-hmm.

-----and you're aware of the obligation that are set forth in subparagraph (2) of that section, and it was your intention to comply with that if required by council officers?-- That's correct. It's drawn to my attention that, in fact, with an anonymous donation - and I'd probably still have to question whether or not the name is there, whether it's still anonymous-----

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Yes?-- -----but with an anonymous donation that if we can't find the address-----

Yes?-- -----then the money should, in fact, be given to the local authority. In the course of the disclosure I sent a memo to the CEO after the election which stated specifically that this person was - the address was anonymous, so that went to the CEO's office. I had no further correspondence from the CEO on that matter.

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And it appears that even as late as just this morning you may well have found the identity of Mr - this WK Group?-- Yes.

And it's your intention either to amend your return or to make payment if required by the local authority?-- Absolutely. Mr Chairman, in this instance, having this matter drawn to my attention by Mr Radcliff, I then started to look further a field, and considering that it said "Trading as the WK Group", we went in to try and find business registers, and we did, in fact, find the name "WK Group". It is a local Nerang business, and we do have an address now. So, depending on what the administration would like to do, I'm more than happy to now provide that address, or to pay to the local authority \$500.

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But first of all-----?-- Either way it's not a problem.

But first of all you're going to have to communicate with WK Group and make sure that they are the ones who provided-----?-- That would be right.

All right. Good. Councillor Shepherd, I'll now deal with the first of the two functions that have received some prominence here and that was the function that occurred on the 12th of November 2003 and the documentation in relation to that as well as in your disclosure document is found for those who have it in - as part of Exhibit 261. You're aware of that invitation, are you, Councillor Shepherd?-- Yes, I am. Yep.

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We heard evidence from Mr Treasure and from Mr Abedian in respect of what took place. I'll ask you to look at this document. Now, first of all, tell us about the function?-- This was an idea from my campaign committee to raise funds for the election. We had a wine tasting function at the local restaurant at Mudgeeraba called the Woodchopper's Inn where a family company, Lindram, featured their wines. It was quite a successful night going on into the wee small hours and during that night we had entertainment from Danny McMaster, an international comedian. It was a well attended function. It was designed as you can see from the invitation to attract proceeds to support my re-election and all costs were paid for legitimately and we raised money towards the election campaign.

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Now, it was on the flyer to be \$40 per head?-- That's correct.

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So if myself and my wife had paid \$80 then the two of us could attend that function and that's - we'd receive tickets for that?-- Absolutely. We catalogued all tickets that were issued. They were all numbered individually and anyone who then returned a little slip on the bottom and said that they would be attending the function and enclosing their cheque we sent out the appropriate number of tickets.

Now, did you in any way communicate with Mr Treasure or Mr Abedian concerning - or anyone from the Sunland Group - concerning this function other than to send them the invitation?-- No. We didn't think that necessary. We sent tickets in response to the slip of paper on the bottom.

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So you would have sent them - how many tickets did you send?-- For that one it would have been - what's 50 by - 50 tickets.

All right. And as a consequence of that if 50 people had attended that night from the Sunland Group or using those tickets they would have been accommodated for, provided with food and drink et cetera?-- Absolutely. And entertained.

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CHAIRMAN: How many people physically did attend, can you remember?-- Roughly 150. It was-----

So there would have been an extra 48 if all 50 had turned up from the Sunland Group?-- Actually I think - my recollection was I saw probably about half a dozen of the Sunland Group -

as you can appreciate there were a lot of people there so it was hard to pick them out - but it is a common practice, I understand, for larger companies to actually buy tickets and then give them to their consultants or to people that work for them so whether there were other people there from those tickets I am unsure but certainly it was a good - good attendance.

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MR RADCLIFF: All right. So-----

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CHAIRMAN: How do you know when you get an invitation such as that one that you received back from the Sunland Group which has got a tick on it saying, "I will be attending the fund raising function and enclose my cheque," and the cheque is for 2,000 but it's not just someone giving a donation which is the way of course it was entered into the books of Sunland, they entered it as a donation of \$2,000; how do you know that it isn't really a donation when they say, "I will be attending," instead of saying, "Myself and 49 other people will be attending, here's the 2,000"?-- Your question is quite right but I'm not sure I can answer it in that these weren't professionally prepared invitations, they were one that was done by myself at home and at that stage I wasn't contemplating someone would actually send in a cheque for \$2,000 and want 50 tickets so the word "I" and "my" were simply put on there as a matter of course just to show the return. Whether they wished to attend or not and buy 50 tickets, whether it's a donation or not, is probably something in their own mind. I was certainly willing to accommodate that number of people. Lindram Wines had an unlimited supply of wines, they were doing it as a promotion and they were paid for usage. In fact, we drank 13 cartons of wine, Mr Chairman, it was a very successful function. So to ascertain whether or not 50 people from Sunland Group would have attended - I didn't see it as being abnormal, they are a big company, I would contemplate that I should have seen a fair number of people from that company.

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Yes, thank you.

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MR RADCLIFF: And in effect you'd catered for them?-- Absolutely.

Had they - had people come and presented the numbered tickets that had been issued to Sunland they would have been welcomed on the night?-- That's right, absolutely.

All right. Now-----?-- Can I just add to that, Mr Chairman, on the invitation it says 5.30 to 7.30 and we I think concluded at about 11 o'clock, it was such a successful night but that was also attributed to the amount of food that we had prepared and the amount of wine that I had allocated for these ticket numbers so it certainly was a great night.

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Councillor, did you discuss this payment of \$2,000 with Mr Treasure or Mr Abedian after it was received?-- No.

Did you discuss it with them after the function at all?-- No.

Now, as a consequence of the receipt of that \$2,000 has there ever been a circumstance where you have provided any benefit to Mr Abedian or to his company or to Mr Treasure?-- Absolutely not. That's not the way I operate.

Council Grew gave evidence yesterday about the circumstance of donations from developers for example. You've had a brief opportunity to read her evidence about that and she said that there is never a circumstance where favouritism is given as a consequence of these donations and she's been in Council for over 14 years. What do you say about that?-- I - I think that's a very strong comment and a certain accurate comment. It's - it's probably an issue that, Mr Chairman, we could spend a lot of time in these hearings going through process within the Gold Coast City Council but what I have found in the six years that I've been a Councillor that the Gold Coast City Council is actually at the forefront in putting in place protocols and procedures, having an excellent staff to support us where these sorts of activities could never occur. We are always under scrutiny. We are always in the public eye. We have procedures that are designed to make us so. We've got procedures that we as a Council adhere to. To suggest that any one Councillor could have an influence over an outcome is wrong because of the processes that we have and to suggest that any one Councillor could get away with - to use a phrase - anything of that nature is totally inappropriate because it just can't happen. There are too many checks and balances and it just can't happen but from my point of view, from a personal point of view, it's not the way I operate and I would - and have - taken offence at many of these allegations that are attacking my integrity as a Councillor.

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While we mentioned the staff you were - prior to becoming a Council you were employed by the Council for a number of years, is that the case?-- That's right. To put it in context, Mr Chairman, I - I grew up on the Gold Coast. I think Sue and I have been on the Coast for about 35, 37 years. We went to school at the Gold Coast and we actually went to school with my good barrister there. In leaving school I went to join the Gold Coast City Council as a cadet draftsman at the age of 17. I stayed with the Council for 17 years and in the last seven years of that term created is what is now Council's traffic directorate. We established that, we set it up and that was a very political position at that time because it was - it was ground-breaking stuff.

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Nowhere in Australia, or just at that time in Australia council were establishing traffic departments - it was the new phase in local Government - and the associations that I made with council staff were very strong ones and many of those staff still exist and the procedures that I learned to follow, the interaction that I had with the elected representatives was very strong, so when I became a councillor I already had a very substantial knowledge of the role and also a substantial knowledge and understanding of the process that the council officers followed.

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Yes?-- I resigned from council in 1988 so in the period between then and becoming a councillor we had small businesses in this immediate area.

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Yes. It's been suggested that you in particular have had an opportunity or can sometimes manipulate staff in your position as the chair of the planning committee; what do you say about that?-- That's totally wrong.

Yes?-- Totally wrong.

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It's also been suggested that you will meet with people and developers about projects prior to any application being made to the council. Is there anything wrong with that, and perhaps you should explain what you do in that regard?-- There's nothing wrong with it at all. Within the council process you have in this council 14 councillors and a mayor and they are answerable to their constituents which I have about 21,000 voting population with probably a 35 to 40,000 resident population.

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Just pause there. By way of comparison the State seat of Mudgeeraba has 25,000?-- 25,000 voters, yes.

That's just to put it into context, yes?-- Mmm.

Sorry, continue?-- It's an extremely large division and one that's very diverse. But within that process of having 14 councillors, to administer or at least bring to council recommendations from the officers we have committees that oversee or overarch particular directorates within council.

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Yes?-- One of those directorates is the planning directorate, PENT, Planning, Environment and Transport. Now, we have a council committee-----

Yes?-- -----made up of eight councillors and that's the city planning committee of which I'm chair, and as chair of that committee it would actually fall upon me on any instant to talk to people about particular issues in regards to future applications or current applications, also to field their complaints should they feel that the council officers are not being of assistance to them or if they have a genuine complaint - I would talk to any number of people from any number of walks of life in that you would always get the mum and dad application that is treated the same as a large application and you have to deal with them independently and separately on their own issues. Importantly I would spend as much time talking to people who object to an application as I do to those who are making the application because as chair of the committee - the people who are making an objection feel that they have a right to come to me as well.

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Yes?-- Now, in all of those proceedings I will always refer them to the division councillor because I believe the division councillor needs to have input, and I will always refer them to council officers. If it's a complaint about council

officers' performance it would normally go to the director of that department or to the CEO.

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Yes?-- And if it's a complaint about inactivity, then I would make sure that the managers of that department are aware that there could be a case for inactivity on their part. The interesting thing is that a development application, even a small one, for an impact assessable reference, could take up to 12 months to go through council. It's a long process, it's a very thorough process, and quite often the representations to me will be that mum and dad from down the road have invested a large amount of money in trying to get a two-lot subdivision and it's 12 months later, they're in debt, they're paying off this extensive amount of money that they've used to get the application under way and they are concerned about their finances.

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Yes?-- So the term "developer", I think it's abhorrent but it's one that people use, but it reflects on everybody. To me, I'd rather say that they're an applicant because an applicant can be any person from any walk of life.

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Yes. Just dealing with that, once again to demonstrate the size of the council, you've prepared this graph. Would you look at this, please. First of all, what's the source of this information that you've-----?-- The source is from the planning directorate. I attended a function where I was guest speaker of the thing, about two months back, and they prepared this information for me that I could then give to that - the people who had the function.

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Total applications, that's everything?-- That - everything that goes through the directorate, so that would be for pool fence applications, pergolas, minor nature things that would need planning approval - these are not building approvals; these are actually planning approvals that go through the directorate, predominantly that would be handled by delegated authority to the officers.

And total development applications, what are they?-- They're applications that would actually come before committee.

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Yes?-- These are ones that are either in conflict and therefore the officers cannot deal with it under delegation-----

Yes?-- -----or, the division councillor, each week we get an agenda of items that are going through under delegation. The division councillor can say, "I'll require this one to come to committee," or they are ones that actually came to committee and were assessed. So in the 18-month period roughly, 5,684 applications were received for development applications.

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And it appears that approximately a thousand were cancelled, refused, lapsed or withdrawn and 4,639 were approved?-- That's correct.

I tender the document.

CHAIRMAN: That will be Exhibit 281.

ADMITTED AND MARKED "EXHIBIT 281"

MR RADCLIFF: Just if we continue with the process because I think it is of assistance. That's being tendered, Councillor Shepherd. Could that be returned to me, please? Dealing with the process, certain councillors are more pedantic than others and one in that regard is Councillor Hackwood, is it not?-- Yes, Hackwood is a unique councillor.

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Yesterday, in evidence, he tendered, amongst other documents, in Exhibit 274, his diary which has two entries in it. One on the 15th of June and one on the 12th of October in respect of which it seems that you have attended at a meeting with him and other people. Perhaps you might look at this document, please, so that you can just refresh your memory in relation to it? Mr Chairman, this is the very point I was raising yesterday about Councillor Hackwood and I've spoken with him and he will be providing a supplementary statement just on these points. It's - it's, without pre-empting it I believe it will be very similar to what you're about to hear. You see those two entries, Mr - Councillor Shepherd? I've marked them with tags? 15 October - 15 June, I think, 12th October?-- Yes. Thank you, Mr Radcliff.

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Yes, you've got them? And in fact, what Councillor Hackwood will say about those is that when he meets with someone about a development application in his area, he insists that a Council officer attend at that meeting, or in one case, of those two meetings, two Council officers attended and he also insists that you attend. Why is that?-- I would suggest that Councillor Hackwood values my opinion. Prior to the 2004 elections I was deputy chair of the Planning South committee and now as chair of the committee. Councillor Hackwood is also on the current City Planning committee. I would suggest strongly that he values my opinion. Interestingly, in division 1, which is Councillor Hackwood's division, we don't get many applications but those that we do get are usually over - is that a fire warning?

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CHAIRMAN: It was to be one of those trial jobs sometime?-- Yes.

MR RADCLIFF: Oh, I see?-- We had City Planning on Tuesday, Mr Chairman, where the same thing happens.

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CHAIRMAN: I had thought it was organised to be not at a hearing time, but it might not have worked?-- Okay. I'll continue. Yes, so it's not uncommon for me to attend issues involving division 1. I have attended, probably, another two or three meetings that I can recall in division 1 where we were dealing with issues, probably not necessarily in

Councillor Hackwood's attendance. Sometimes he will arrange a meeting but be unavailable. There was one, in fact, this week where his secretary, or PA, has booked in a meeting with myself and he and a developer. There was another meeting that I can recall at Bethania where the Minister, Margaret Keech, was in attendance because the applicant was very unhappy with Council's decision and had gone to her and she requested that Councillor Hackwood attend. He asked me to attend and that was held, so, it's not uncommon for me to attend meetings with Councillor Hackwood.

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MR RADCLIFF: All right. That exhibit can be returned. Do you wish to have a - an early mid-morning break because of these noises?

CHAIRMAN: That - just before we do. Just - Look, I don't require any further statement from Councillor Hackwood on that. I have no difficulty in-----

MR RADCLIFF: All right. I understand that.

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CHAIRMAN: -----unless someone else wants to see it. I don't see it as a point in issue.

MR RADCLIFF: No. Good. Thank you.

CHAIRMAN: We might just take a break and see what is happening?

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THE COURT ADJOURNED AT 10 48 A.M.

THE COURT RESUMED AT 11 12 A.M.

EDWARD LLOYD SHEPHERD, CONTINUING EXAMINATION:

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MR RADCLIFF: Councillor, can I just go back to that anonymous donation? In your - just to complete that, in your final return on page 3 of 8, you explained the deficiency in your return by writing in the words, "Address of Elwog. Address of that person. Cheque arrived by mail with no return address details." And subsequently we don't have copies of this and I apologise - subsequently in your register of interests you also disclose that same information about-----?-- That's correct.

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Could the witness please have this document back again, please? I'll deal now with what has been come to be known in this hearing as the Power/Robbins Trust or the Lionel Barden Trust. What, if any, involvement did you have in respect of

that trust, in either of its names?-- I had no involvement whatsoever.

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We've heard about this meeting that occurred on the - this meeting that occurred on the 16th of December 2004 and it was at that meeting that you came to see what is Exhibit 14. If the witness could see Exhibit 14 and Exhibit 138, please? Councillor, you've seen Exhibit 14 before, have you not?-- Yes, I have, yes.

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You saw it at a meeting that occurred on, we believe the 16th of December 2004, but you say your diary doesn't have any record of that meeting?-- I think you'll find that the date is incorrect in that it was actually December of 2003.

Oh, 2003, yes, you are right. Yes, thank you for that. But you've - you've looked at your diary, there's no record of it there?-- No.

Others have said that you attended. At whose request did you attend?-- I can't exactly remember, but I have a feeling that it was Councillor Robbins. Sue and I were fairly close being on the Planning committee.

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Yes. And for what purpose did you attend the meeting?-- Basically I was asked to attend to provide to a group of prospective candidates for the election. My expertise, or samples of my knowledge about running a campaign, based on running against a sitting councillor. It's fairly rare for a new candidate to beat a sitting councillor and in the previous election in 2000 I managed to beat the incumbent councillor and so they said could I come along and just explain how my campaign was run, what we did, to some prospective candidates.

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Prior to the meeting occurring, were you informed of who would be attending as these prospective candidates?-- No. No.

All right. When you did come, so - I've used this term in the inquiry, your role was akin to that of a guest speaker, is that correct?-- I would suggest so. I was simply asked to come along and highlight my experiences. I don't know that I was expected to give any other indications. I certainly wasn't there to tell them how to run their campaigns, and I wouldn't do that, but more or less to relay my experiences from the previous election in 2000.

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And at the meeting you came to see Mr Pforr, Mr Betts, Mr Rowe, and Mr Molhoek, is that right?-- Yes. I said in my statement to the CMC, I'm not sure whether Roxanne Scott was there.

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Yes?-- It's - there was a lot of people coming and going. People were late. I actually left early so I don't know whether she was there, but the others you mentioned, I believe they were there, yes.

When you attended this meeting, did you - did you in fact speak?-- Yes. I spoke for a short while. There was a lot, as you can appreciate, there was a lot of people in the room who wanted to give an opinion and who contradicted. I recall that I probably spoke for about 5 or 10 minutes. Sue Robbins and I had a bit of an argument as we sometimes did and I think for the balance of the meeting I more or less gave answers as requested in regard to specific topics and as I said, I left early anyway.

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Yes. You had an argument, or a disagreement with Sue Robbins?-- Yeah. It was only a disagreement. She was very strong willed. I was giving an opinion. That's not uncommon and we remain good mates, but certainly, yeah, we, on occasion, disagree with each other.

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Mmm. And now, lets talk about Exhibit 14 first of all. Who prepared the document and who - who distributed the document, or how did it become to be there?-- I presume that Chris Morgan prepared it. He certainly distributed it and it was laying on the table as we arrived, so you'd pick it up and have a look at it. I certainly disagreed with it. There are many issues in there that I wouldn't want to get involved in, and indeed didn't get involved in, but more importantly I didn't want to be seen to be trying to prepare a campaign for these people. I was only there to give an opinion of my experiences so I - I had a quick read of it, put it back down on the table and left it there.

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So none of this was endorsed by you-----?-- No.

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-----or used by you?-- No, absolutely not, absolutely not.

Now, you have disclosed that your campaign chairman is Mr Wayne Moran?-- That's right.

He's been a close confidants of yours for a number of years?-- Absolutely.

And he's a man who you have come to respect and you listen to his opinions?-- Yes, we have a good rapport. Wayne is an ideas man, he'll present ideas and concepts, he's been associated with most of my campaigns. Ultimately, Sue and I are the decision-makers, we'll-----

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Sue's your wife?-- Sue is my wife, yeah. We always decide on the outcomes or what strategies we'll use or how we'll run the campaign, but we have a very close knit campaign committee that are all very personal friends and they're able to speak their mind as they see fit.

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So after you left the meeting did you speak to Mr Moran about what had occurred?-- Yeah, I think he actually rang me and - because I did mention to him when I was on my way there that I was attending a meeting to brief candidates who rang me and he said, "How did it go? What was it all about?" I explained that - that I'd given my briefing, but - yeah, that there was this document on the table, it was looking to be a - to

establish some sort of direction for candidates as to how to run their campaigns.

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So that telephone conversation occurred you think on the 16th or just shortly prior to or after the meeting, is that the case?-- I think it was just after the meeting, as I left the meeting, I think I spoke to him then.

Did he subsequently e-mail you to give you some advice in respect of what you'd told him about what was going on?-- Yes, we have an e-mail which I was able to provide you. He e-mailed me with his concerns. I think it's headed "election danger" or something.

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Could the witness please see this document. Copies have been provided to Mr Mulholland?-- Has there been this-----

Now, this is a document which Mr Moran has given to you and sent to you approximately a day and a half after this meeting, is that the case?-- Yes, it's dated the 18th of December and I've made a little note on there, that's my handwriting there, that basically I agree with his comments.

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Well, we'll come to that in a moment. In the third paragraph "your long-term friendship with Knickers", that's Nicole Russ, is it?-- Nicola, yes.

Nicola Russ. And that is the wife of Chris Morgan?-- She wasn't at the time, but she is now, yes.

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I won't seek to paraphrase it, but his advice to you was that what Chris was proposing you shouldn't have a - you shouldn't touch with a barge pole?-- Yes. He's - he's using some - some terms there, but he's saying in short, "Stay out of it, Ted, I don't want to drag you or your campaign down." So he's - he's advising me that from his interpretation of what happened that we should stay out of it, have nothing to do with it. I agreed with that point of view, I'd already formulated that point of view myself and agreed that, you know, we successfully run our own campaigns, we don't want any involvement with any other candidate, why would we and at that particular point in time I had a very very strong campaign against me that had been running for probably two or three years before the election so we had a lot of concerns. There was a general feeling in the community that I wouldn't be re-elected. I think that was shown in a - part of the transcripts where I was only rated as a 55 per cent chance of winning and that was because there was a concerted effort by a specific group of people.

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In the last paragraph he says, "At the end of the day I strongly suggest that we use Chris on one promotion package, the 10 out of 10-----"?-- Mmm-hmm.

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"-----and Quadrant gets paid for producing artwork like any supplier of such services from our campaign funds. This way Chris's nose is not out of joint and he gets his little drink"?-- That's correct.

By that he - one promotional passage, what's he talking about there?-- With any campaign you normally produce a lot of literature and they're usually a promotional leaflet that goes out. There's letters that are distributed, bumper stickers, how to vote cards, the whole thing. In this particular case we wanted one hard-hitting large promotional leaflet and we wanted bumper stickers or car stickers. Chris felt that he would like to do that one. He wanted to do more than that, but Wayne is suggesting let's just give him that promotion package to do by contracting with Quadrant, his company, and paying his company the full amount and that way his nose won't be put out of joint in that Chris, as a professional advertising man, he wanted to get in and do it all and we succinctly said, "No, we only want you to do that one package" and that - that gave him some work to do.

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I should tender that document.

CHAIRMAN: That will be Exhibit 281.

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WITNESS: Do you want to see the leaflet that was produced?

MR RADCLIFF: We've go to that in a moment, Councillor Shepherd. You've also got with you there Exhibit 138, which is the bundle of correspondence that was tendered by Mr Morgan as correspondence from Quadrant and from himself relating to yourself. Now, after having been-----

MR WEBB: Just before you go on. Mr Chair, that should be 282.

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CHAIRMAN: Should it? Okay.

ADMITTED AND MARKED "EXHIBIT 282"

CHAIRMAN: What's 281?

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MR WEBB: The graph.

MR RADCLIFF: Sorry, you've got Exhibit 138 there-----?-- Mmm-hmm.

-----which he tells us is everything that he has in relation to your affairs and his own and that of Quadrants. There are a number of accounts at the start and these accounts relate to production of how to vote cards and production of stickers and the like. Were they prepared for you by Quadrant on a commercial basis?-- Absolutely, absolutely on a commercial basis, even to the extent where they were quite expensive. In hindsight we probably could have gone to another source, but it was a good product so the job was done, but yes, certainly on a commercial basis there was no discounts given.

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All right. And you used other printers for other aspects - or other people for other aspects of your campaign as well?-- Absolutely. We used printing companies to do letters, bulk mail-out letters, even Wayne Moran in a semi-professional, amateur basis, prepared another leaflet for me in regard to raising of the Hinze Dam, that was a very successful leaflet but these are - the only involvement of Quadrant was the 10 out of 10 promotion.

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All right. Now, after your bundle of Quadrant tax invoices and payments and what have you we then come to some emails. There's an email of Mr Wayne Moran, that's what he prepared for you, The Awful Truth document, is that right?-- That's from Wayne to myself and Chris, yes, The Awful Truth, yes.

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Yes. You can go past those ones. Then there's-----?-- And that wasn't used.

No?-- No.

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Then you go to the next one, there's an email from Chris Morgan re complaint Alice Jones.

CHAIRMAN: Where are you looking?

MR RADCLIFF: One thirty-eight.

CHAIRMAN: One thirty-eight now.

MR RADCLIFF: Sorry. I've dealt with the invoices. I've dealt with an email from Mr Moran and the attachment and then we're at the first email from Chris Morgan of 2nd December 2003. You have that?-- Yes.

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I don't need to go into any of that but effectively Morgan was advising you not to try and use the Gold Coast Bulletin for any purpose because of - all I can say is media bias, is that the case?-- Absolutely. As I said there was an ongoing campaign for probably three or four years prior to the election to discredit me and that was reinforced by one particular journalist at the Gold Coast Bulletin who I would suggest was absolutely biased and I wrote to The Bulletin editor in that regard on several occasions as opposed to now The Bulletin journalists are quite balanced but in those days this particular journalist of which Chris wrote the email was certainly biased.

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I don't think we need to go into any more of that. The next document after that is a prospective campaign mail-out program. Is that - that's from Moran to yourself and to Morgan. That's something created by Mr Moran, was it?-- Yeah. In the - the committee that we have everyone tends to put forward their ideas on what's the best things to do and strategies and programs. As I said Sue and I ultimately make the decisions but importantly we would always have regular campaign meetings where these ideas would be put forward and discussed and then an ultimate strategy worked out so this is

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from Wayne and it suggests a timeframe for mail-outs of letters and leaflets.

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And then there's an email from Morgan to yourself amending that. We can just skip over that. And then the next document is the 5th of January, a Quadrant shoot list.

CHAIRMAN: Do we need to go through all these item by item?

MR RADCLIFF: No. No, I'm just trying to get to the-----

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CHAIRMAN: They speak for themselves.

MR RADCLIFF: Yes, of course. Of course. I'm trying to get effectively to the emails that - I hope they're in this bundle. I'm looking at the emails that passed between yourself and Mr Morgan. On the - around about the 8th of 10th of January where Mr Morgan-----

CHAIRMAN: I can see one of the 8th of January from Mr Shepherd to Mr Morgan.

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MR RADCLIFF: Yes, thank you. The ones to which I wish to refer are two that were sent, one on the 10th of January and one of the 11th of January, can you come to those if you can find them, Councillor Shepherd?-- I've got one on the 11th of January, yes.

About another half a dozen pages in from where we were?-- Yeah. And it's actually got two parts, the top part is the 11th, the bottom part is the 10th.

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Yes. In - so that is where you're responding to his email which is the bottom one which comes first in time and I refer you particularly to the second last paragraph on that page, do you see the paragraph that starts - and I'll read it - "Although we had set up your campaign as a completely separate account here at Quadrant it is obvious you are quite concerned with a possible association with other candidates. The absence of any work through Quadrant should I hope eliminate this possibility although continued involvement on your campaign committee could possibly be equally compromising. We'd possibly need to discuss this aspect as well soon." Can you tell us what led to his comments about that, was there a conversation between he and you about that?-- There - there was an ongoing issue that started with the emails on the 5th of January which are in here and then on the 8th where I was expressing concern to Chris following that original email from Wayne where I said to Chris you know, "Look mate, we don't want to be involved in these other campaigns. We still like the work that you do and we want to concentrate on you doing the 10 out of 10 campaign leaflet." Now, being the professional that he is he had started to initiate artwork designs and sketches about what the full raft of things would look like and I've gone back to Chris and said, "Back off. We only want you to do one or two things, we don't want you to do the lot. We don't want you to dictate to the committee what your ideas are. We work as a committee. My committee will

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decide what we want to do and then you as Quadrant will do the work that we give you to do." So it culminated in what I felt was a little terse email from him to me saying, "Well, you know, if that's your opinion then why don't we just get out of it altogether and see you later," but the close association that Sue and I have had with Nicola, his future wife, went back many, many years and I didn't want to disturb that personal relationship and so I sent the email of the 11th saying to him, "I think - I'd like Quadrant to do that leaflet for me. You are professionals, it should be a good hard-hitting leaflet. I want it to be hard hitting. It needs to be a very good leaflet," but I then went on to say and specifically I don't want it.

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Well, just to identify that for the transcript, that's your comments in the first paragraph, are they not, that - thanks for your comments?-- In my return, yep.

We-----?-- "We need to formalise how the campaign would run so that it was best to get everything out in the open," so I was telling him no more terse emails, let's get everything out in the open, what I want you to do, what I don't want you to do as the candidate, you know, ultimately the boss. I was telling him what I wanted him to do but also as a friend I didn't want to offend him or - or put him off in any way. So I said I agree the Quadrant process would be professional but also would be more expensive than I think we can afford. That was in regard to his whole raft of what he wanted to do for me as a campaign strategy and I'm-----

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All right. Now let's look carefully at the second paragraph of that letter?-- Mmm.

You say this first, "With regard to the other campaigns," what's that referenced to?-- At - by that time I was aware that he was talking to these other candidates and I knew that or presumed that he was putting together a strategy for them-----

Yes?-- -----as he was trying to do with me and-----

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All right, now let's take it phrase by phrase?-- Phrase by phrase, okay.

And the next one is "and my connection with them", what's that refer to?-- Basically that he as the co-ordinator of their literature and strategies, I didn't want to be associated with that. I didn't want to be associated with Chris Morgan, the Quadrant co-ordinator-----

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Yes?-- I only wanted to be associated with Chris Morgan, the friend-----

Yes?-- -----who was assisting myself and Nicole.

Is this another example of what happened with Exhibit 14?-- Yes, absolutely. That is something that Chris has prepared on his own bat, unbeknowns to anyone but in his

professional way he puts it on the table as being the absolute document and what I had to do by this e-mail was simply say to him that my wife and I would be making the decisions about the strategy not anyone else.

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Yes. And thence through Quadrant and funding, as at this point in time at 11 January, what did you know about Quadrant and funding?-- Only from people's comments. I think I'd spoken to a few people who simply said, you know, this funding is starting to become available through Quadrant through Chris Morgan so I didn't want anything to do with funding. I say to him that our campaign should be fully funded by the end of next week.

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Yes?-- We were very aware of what funding we needed.

Yes?-- Even in the time between the 2000 election and 2004 election, I was putting away \$50 a week out of the salary to go to the campaign account so we were very aware of what funding was required. We had it all in place. I didn't want to get involved in any association with any funds or anything of that nature that would come through Chris Morgan.

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Did he, in any way, offer you any funding or suggest to you that he had an ability to provide you with funding?-- What he suggested in the way that he does things is he prepared a script of - you know, what sort of strategies he could do and what sort of documents he could do and how many mail-outs he could do and this was required to X number of dollars and that we would need to gain funding.

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Yes?-- Now, I didn't want him to gain funding for me.

Yes?-- I simply wanted to run my own campaign as I do.

All right. We've come up to the three little dots, then we come to the section that says, "Additionally" - and I'll read these words and I just ask you to comment. "Additionally, I had an interesting conversation with Max Christmas..." - he was a councillor at the time?-- That's correct.

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"...yesterday where he was aware that I was involved with the "David Power group of 8" Stop there?-- Yes.

Can you tell us what happened there and what-----?-- Okay. The way I write my e-mails, especially to friends, is more or less the way I speak so you've got to take this in full context - is that Max Christmas said "the David Power group of 8". Max Christmas is a very vocal and aggressive sort of a person and we were just coming out of committee - I remember it clearly - and Max walks up and grabs him by the arm and he says, "Now, what do I have to do to become part of the David Power group of 8?" Now, they're his words, they're not mine. I certainly had no involvement or discussions with David Power about forming a group of 8.

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Yes?-- I reject that totally. But Max came along and said, you know, "I want to be part of this David Power group of 8."

Now, that could be a presumption that Max had. He may have spoken to media or something about it. There was a lot of scuttlebutt going around so I don't know where it was coming from but, certainly, it wasn't something that I wanted to get involved in and you'd laugh it off with Max and say, you know, "Nothing happening, Max. Don't know anything about it. Don't want anything to do with it."

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Well, let's read the next few lines. "I denied it but you need to be aware that somebody is talking already." What's that a reference to?-- Basically, that's a reference to the candidates. My concern was if you're going to be assisting people in campaigns, you have to keep campaigns close to your chest and that you have to keep your strategies close to your chest. Now, I said to Chris, I think, at an early stage, "I don't want to be involved in anyone else's campaigns because my ideas might be used by them. They might try and use my ideas to foster themselves but bring me into an awkward position where my own campaign needs to run its own course." So that - sorry, lost my train of thought. So basically, as I understand it, even my 10 out of 10 leaflet-----

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Yes?-- -----that we had produced through Quadrant was actually used by some of the other candidates and that's what I didn't want to see - was anything that I'm preparing, which we set in place over a period of time to be used at the right time, I didn't want any of my literature or anything that was linked to my literature in colour or size or appearance getting out before I was ready for it and I didn't want it to be used by any other campaigns. So it's very important that people don't talk about campaigns. They should be personal and kept to oneself or to one's committee. So what I was saying there, quite clearly, is - I denied any involvement in a group of 8 but Chris needed to be aware that somebody, obviously in his group, was talking about it because Max Christmas heard it from somewhere and Max was out there trying to get assistance and funding. And I just said to Chris, "You need to be aware of it because someone in your group is openly talking about campaigns."

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Let's go back to those words "the David Power group of 8". First of all, has there ever been, to your knowledge, such an organisation?-- No, no-----

Has-----?-- -----and I actually probably think that what Max was inferring to was a possible group of 8 candidates - new candidates, sorry - new candidates that he could brief up as simply candidates.

Yes?-- That Chris Morgan could brief as candidates. I don't believe it was, as is now being referred to, "a bloc". That's totally irrelevant and out of the question and doesn't happen.

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And then you go on to say, "I am available for advice to the candidates but do not want to be linked financially and politically with the other campaigns"?-- Yes. And again, I'd ask the Commission to look at the way I write my e-mails - and this is to a personal friend. For me to do a highlight of "do

not" in couple letters is - that's the message that I'm trying to give him, not as has been inferred, that I was trying to hide or keep under cover any linkage financially or politically. What I am saying to him in very simply terms is, I'm available for advice to the candidates, that's fine. If you want to ring me up and ask for advice on how to run my previous election campaign, that's fine, happy to do that but I do not - I do not want to be linked in any way financially or politically with any other campaigns. I run my own campaign. My campaign committee, my wife, we run our own campaign. We don't want to be associated with, we don't want to have connections with other campaigns. Leave us alone. We've got enough to worry about in division 9. We don't want to be involved in the others.

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All right. We can put that aside for now. There was also a circumstance of some mistrust at one of the candidates on your part; wasn't it?-- Yes, when I came into the room and - and I don't wish this to sound derogatory but one of the candidates that was there was a person that I had some dealings with in the past as business dealings through the show society that I was secretary of. I wasn't particularly impressed by his attitudes, consequently, I mistrusted the person, yes.

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Do you wish to disclose the name of that - that person?-- Time - the time's changing-----

Yes?-- -----yes, Councillor Mulhoek who had been a director of R G Capital Group in regard to the radio stations, I'd had some dealings with him-----

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Mmm?-- -----I think Councillor Castra had some dealings with him but I just - when I walked into the room, I had some reservations about Councillor Molhoek being-----

But that was your-----?-- -----a councillor.

That was your opinion then?-- Absolutely-----.

Yes, yes?-- -----and that changes with time.

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Yes, yes. All right. Just closing on the Morgan Quadrant period, your evidence - your relationship with Mr Morgan; how did it, how was it created?-- I'd known - I'd known Chris, probably, for about 10 years now.

Mmm?-- We were in Rotary Club together at Mudgeeraba. I established with Nicola, his future wife, the Hinterland Tourism Association-----

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Yes?-- -----which was promoting the hinterland regions of the Gold Coast. He then - when I resigned as chairman to contest the 2000 elections, he took over as chairman of the Hinterland Tourism Association.

Yes?-- In doing so, we were talking tourism, promotion and activities all through the lead up to that election and after.

I - I understand that during the election campaign, you would hold from possibly July 2003, meetings every month then it would come more frequent as-----?-- Mmm.

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-----the election came closer so that in December, you'd be holding fortnightly meetings-----?-- Mmm.

-----and January - January/February, possibly, weekly meetings; is that the case?-- Yes. Depending on availability but yes.

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And what was Morgan's involvement in those meetings. First of all, how frequently did he attend the meetings?-- Chris is a fairly busy person and - and we'd assigned him the task to do which was that major leaflet, I'd probably think 50 per cent of the meetings.

Yes, all right. And when he was at these meetings, what was his role; was that - was - we heard that Mr Moran was your chairman-----?-- Uh-hmm.

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-----and that predominantly, you and Sue were the decision-makers and if you had power of veto in relation to that?-- Uh-hmm.

Nicola, his wife, was the - the treasurer-----?-- That's correct.

-----and his role was that of just a committee man-----?-- Yes, and nothing more. Whenever we'd have an open discussion about a strategy or a - say a response to a media article, he would have some input and give a - his personal interpretation but that's all.

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Yes. All right. And - so, "I came to be elected," and then the next event that we've heard about was the second function of May this year which has been the subject of some statements by Councillor Young about what happened there and how much money we raised and how much money you didn't raise and first of all, to put it squarely away; did you raise \$50,000 at this function?-- No, I did not.

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Did you have one donor who gave you \$30,000-----?-- No, I didn't.

-----at that function. In an overabundance of caution, I'll provide copies of this to-----

CHAIRMAN: The disclosure document, do you mean - well, if it's in here-----

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MR RADCLIFF: Exhibit 280.

CHAIRMAN: -----I take it, is an extra one.

MR RADCLIFF: I - I think it's in there but if just in case, it's not, that's-----

CHAIRMAN: Okay.

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MR RADCLIFF: I seem to have lost my copy-----

WITNESS: I've got it, I think.

MR RADCLIFF: You've got it-----?-- Would you like it back?

Yes, please. In any event, we can use this document. Is that a balance sheet or a schedule setting out the income and expenditure in respect of that function?-- Yes, it is. It's fairly basic but it shows the income that was received, the costs of the outgoings-----

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Yes-----?-- -----and the balance.

Yes. And the points for discussion at the foot of that is comments about - well, there's the - that's what we're here - that's how successful it was. Talk about these-----?-- For the next one.

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-----for the next one-----?-- Yes.

-----if we're going to have it?-- Absolutely.

We don't want to log the record of the-----

CHAIRMAN: Look, I - I can't find it flipping through mine in here so I think, it might not be there so I will take it as Exhibit 283.

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MR RADCLIFF: We've heard evidence that Niccon representatives came to the function and paid you \$695 which was the - price of 10 seats; wasn't it-----?-- That's right-----

And-----?-- -----it was \$75 a head but 695 for 10.

And they came; 10 people attended from that group?-- Absolutely, yes.

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And you kept records again of all tickets that were sold?-- We did and again-----

Yes?-- -----another very successful function.

Yes. All right. That leads to the - the lunch room incident where you and Councillor Power supposedly said-----?-- Can I - just in regard to that function-----

Yes, sorry-----?-- -----if I may, Mr Radcliff, to you Chair, because it was in the lead-up to the 2008 elections, because we knew that it would be scrutinised so heavily-----

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Yes?-- -----it was to the extreme, that we made sure that everything was covered, the letters that went out, we kept a record. The amount of money spent on each item, we kept a record, the tickets that were issued-----

Mmm?-- -----two hundred and four people attended the function. The profit, as you've seen, is a moderate one and a successful evening.

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Mmm?-- I really took offence to this matter being discussed in the dossier as it's now being known to be called because, to me, this was scandalous. I'd gone to great lengths to show everybody that this was function was deliberate, above board, fully accounted for and yet, I've found the accusations in that document to be quite scurrilous.

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Yes?-- The people that attended were a wide range of people. They were not simply the D word, the developers.

Yes?-- These were professional people. Journalists. Counsellors. Any walk of life. Solicitors. Barristers. Were all in attendance at that function and I really did take an offence to seeing it in the document.

Yes. Well-----?-- I'm sorry for that-----

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Well-----?-- Sorry for that.

No, that's fine. You are aware that Councillor Young has given evidence about what he said now and has explained it that - sorry, I'm - this is in a different context. I'll deal with what Councillor Young said about that. He says that you held a function for your 2008 re-election campaign, it was attended by 200 guests, development interests were invited and I've dealt with the 30,000 and \$50,000. He then goes on to say, "This is an extraordinary sum of money." Well, you've explained the quantity of money. He says this type of fundraising raises serious questions about potential conflicts of interest. What do you say about conflicts of interest in respect of people who attend a function such as this?-- I think it's absolutely ridiculous. We - first of all we have to raise funds for election campaigns. If there is concern about us receiving donations, outright donations, then isn't the next avenue you try and raise funds; you either support it financially yourself if you're wealthy or financially independent, or you raise money.

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Mmm?-- Now, this was a function that was simply designed to raise money where the people that attended received a ticket, attended and were given a fantastic night of entertainment, of food and wine, and they enjoyed themselves and they got value for their money and from that we raised resources to go to the campaign. To say that someone is going to get a privilege or a benefit from attending is wrong. You know, what benefit would a family member get or a professional person get or anyone get, and to simply target a developer as coming along to a function where I know one developer showed up in a minibus with all of his staff because he was there to have a good time. And to say that they're going to get some advantage out of that, you know, that's - that's, you know - I'm sorry, but the man's delusional, to think that he can make that accusation on a function that was so above board and so publicly transparent, it's ridiculous.

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All right. He goes on to say, "As the acknowledged pro-development chair of planning committee and the apparent single point of call for developers, and upon whose support so much importance now rests, this councillor is in a position that might lead to significant conflicts arising." Once again, you say that's scurrilous?-- Mr Radcliff, as you would know - sorry, seeing as we have known each other for so long, I'm a man with great integrity and I take this as a real offence because, in taking on the role of city planning chair, everybody knew where I stood, everybody who knows me know that I will not give an advantage to anyone for some sort of financial return. I take my job very seriously. The development industry, which includes consultants and professionals and solicitors, all know that I deal with them fairly and evenly based on the facts put before me and the circumstances involving those applications or situations. To suggest that I am going to destroy my good name, to destroy my integrity for \$695 worth of 10 tickets to a function, these people don't know me; they don't understand my background.

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CHAIRMAN: The problem might be, Councillor, that it's not just the people who know you that might have to be considered but the people also in the population who don't know you?-- Yes, that's true but-----

See, you represent, you said, some 30,000 or so people altogether, and you're not going to know all those people, are you?-- No, but by the same token if I have a function that was behind closed doors where people who could not see who was invited and-----

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Yes. Look, I can understand all that; it's not behind closed doors or anything, but can't you see that there might be some people in the population who see you voting this week on development applications - and not just voting, chairing, so you're in a position of some prominence on the committee - on development applications by companies A, B, C and D, and then the same week your campaign director is writing off to those people inviting them to come along with a table of 10. Now, it's only \$700 but if none of those come along, well, it's going to affect your fundraising. Now, I certainly would find it difficult to believe that a man such as yourself would, to use the expression, sell your soul for \$700, but there's that perception that can arise that, at the same time as you're dealing with these companies professionally, you are writing of to them and saying, "Come along to my fundraising function"?-- No, Mr Chairman, I reject that. I reject that outright because people understand that someone in my position has to raise money for an election campaign. They understand that. I have had nobody come forward to me and say, "This was wrong, this was scurrilous. What are you doing?"

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You really wouldn't expect it-----?-- But, Mr Chairman, if I may-----

You wouldn't really expect that too many members of the population are going to walk up to you in the street and

accuse you of this sort of thing, would you?-- Absolutely.
Absolutely.

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It's the sort of thing that they perhaps-----?-- Mr Chairman,
you - if I may interrupt-----

-----feel their concerns about but-----?-- -----you don't
understand my community. You don't understand what is a very
unique community and that's based on Mudgeeraba but takes in
all the hinterland. These people in my division will tell me.
They will single me out.

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Councillor Shepherd, it's not just your division; you're
chairing a planning committee across the entire Gold Coast
area?-- That's right.

You deal with developers across the entire Gold Coast area and
you therefore are responsible for electors and not just
electors - to the entire population of the Gold Coast area, so
it's nothing to do with the uniqueness of your Mudgeeraba
community?-- Well, in fact you were saying that someone would
come up to me in the street and so it's more-----

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I didn't say that?-- -----more likely that I'm going to
interact with those people in my community and they're going
to be my litmus test, they're going to say to me if they think
I'm doing something wrong. But in regard to my role as
committee chair, that's a role that everyone in the community,
because they do read the papers and see the news, will
understand that I'm administering that role very, very
properly and very mindful of my obligations. Now,
Mr Chairman, to conduct a function that raises money for a
campaign, I don't believe that the populace would have a
problem with that. I believe that a select group of people
would try and raise that as a scurrilous accusation to try and
discredit me-----

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All right-----?-- -----but I-----

-----that's your belief?-- Well, it is, and it's one that I'll
hold dearly because I have no problems in going into committee
meetings and council meetings and giving an opinion that is
mine, that is mine in good faith, that is mine in the public
interest, that I am saying to these people I am a good
representative of them and I will represent them to the best
of my ability, and that to have a function where moneys are
raised I believe is a part of life nowadays, where if you go
to a Rotary Club and you need to raise money, are you then to
say that the Rotary Club can't give that money to a local
organisation because of some conflict?

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Now, that's not quite a good example. What would you say to
the possibility that in raising this you should then be
required - and I'm giving you this opportunity, I'm interested
in hearing your comments on it - that any donations, purchase
of tickets or whatever over the \$200 limit should be disclosed
as part of returns to the Council, would you have any

objection to doing that? That in other words, for your fundraising before the 2004 election-----?-- Mmm-hmm.

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-----part of your return would have had "the Sunland Group bought \$2,000 worth of tickets to my fundraising function"?-- Mmm.

Would you have any objection to that form of disclosure?-- I would need to see the legislation that involves it, Mr Chairman.

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Well, can you tell me any aspects of any possible legislation that you would find objectionable and, if so, why?-- Well, we have a legislation that we work to at the moment and you would surely be aware by now that I conformed with that legislation to the hilt, but-----

Well, I agree you conformed with what is set out in the local Government booklet about it, you conform with that to the hilt. I must say I find their part about not needing to disclose fundraising functions a little bit hard to understand on my reading of the legislation, but putting that aside-----?-- But that is the legislation that exists.

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Well, I think they're wrong, but you did comply with what they said-----?-- Absolutely.

-----and I can't criticise you for doing that-----?-- Absolutely.

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-----and I won't?-- No.

But this is going back to the aspect that if you get a contribution, call it a purchase of tickets or donation or whatever you want to, of \$2,000-----?-- Mmm-hmm.

-----to a fundraising activity do you see any reason why it wouldn't be appropriate that that be disclosed as part of your receipt of donations, receipt of funds for your election campaign?-- Mr Chairman, I probably would like to reserve my comment on that because I don't think you can take it in that small a context. At the moment there is a large disparity between ourselves and the reporting process of State and Federal members. They have a much larger range of donation amount, dollars amounts, before they have to declare. Now, if the Local Government Act was to reflect the size of this Council and its operation then sure I'd comply. Whatever the Local Government Act requires I will comply with. But to say that we simply need to disclose every donation to a particular function when in fact that donation is the purchase of a ticket that gives them value for money is it in fact a \$2,000 donation or do you deduct off the value that they received. So I'm not quite sure what amount you would declare.

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Well, there are varying ways it's dealt with in varying pieces of legislation throughout internationally and in other parts of Australia. Some make it you have to declare the total, some say you declare the difference between the-----?-- Mmm.

-----actual value and the cost. But this is the point I'm giving you the opportunity to say is to - if you desire to make any comment to me with respect to any possible recommendation that we might make to - for a change in the legislation to require-----?-- Okay.

-----some disclosure of such contributions?-- The other aspect that I would like to touch on and I hoped that you would ask me these questions, as you've done with other councillors, there are other changes that would need to occur to allow that to be assessed. Those changes - one that I would like to see addressed is the aspect of material personal interest and conflict of interest because at the moment the legislation is so vague over those two issues it draws into question when do you have a material personal interest in regards to a donation and the amount of that donation, when do you have a conflict of interest. Quite often we have councillors who will declare an interest when they are in Council or in committee, but they fail to designate whether it's a conflict or whether it's a material interest. That needs to be addressed. I think the Local Government Act - and I've spoken to other people who have said to me the Local Government Act needs to be addressed to define when is a declaration required. As you would know, with a material interest it is only where you are receiving a material benefit or where you seek to or possibly could be at a loss because of that interest, whereas a conflict of interest is one where if you can vote in your mind on the public interest on the public good then the conflict doesn't exist. It's very - to me it's very erroneous to have these two diverse-----

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I've heard that sort of statement before. I don't know how anyone can get that out of the Local Government Act, but-----?-- Well-----

-----I understand what you say about some need for changes. With respect to those, look I'd be very happy, as I've said to other candidates, to receive from you any written submissions you want to make addressing specific aspects of that, I'd be very happy to receive those and I would seek that?-- That would be good, I'd appreciate it.

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Thank you.

MR RADCLIFF: Thank you. I know I've run over time as to estimates, but I'll keep going as quick as I can. Because it's an issue, I ask you about this lunchroom circumstance with Councillor Power and yourself and we've heard evidence that Councillor Young overheard the words "There will be enough left over for the rest of us." Tell us about that?-- It's an interesting one and if I can take you to before the event where there was a lot of paranoia, there was a lot of current scandal mongering whereby some councillors within Council were determined at any length to create scandal, to create innuendo that was totally unfounded. Now, at that particular point in time we had a lunch room at the rear of the Council chambers and in between Council meetings,

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committee meetings or in the lead-up to a committee meeting a very light lunch was provided and I might add that that light lunch became a topic of a debate in Council generated by Councillor Sarroff-----

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CHAIRMAN: We don't need to take time with that?-- Well, it's particular.

That's not something we're concerned about?-- It's particular, Mr Chairman, if I may.

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Well, I hope it is. I've just heard a lot of things that really-----

MR RADCLIFF: Well-----?-- Well-----

-----unfortunately we have to respond to them. We don't know-----

CHAIRMAN: Well, I don't think anyone's criticised the Council for having a light lunch.

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MR RADCLIFF: No, no.

WITNESS: Well, Councillor Sarroff did.

CHAIRMAN: I don't need to hear about that.

MR RADCLIFF: All right?-- Mr Chairman, with respect, Councillor Sarroff made it an issue-----

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CHAIRMAN: I don't care if he did. I'm not going to be declaring somewhat upon that, I'm not going to be making a decision whether he was right or wrong in that?-- No, but Councillor Young has made an accusation, an allegation in his dossier that this was a particular-----

I'm sorry, but I didn't see that in the dossier if it's there somewhere.

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MR RADCLIFF: Perhaps - I'll try and regulate things a little bit. That was said by you as a joke, wasn't it?-- Absolutely, absolutely. Mr Chairman, what I was getting to is we knew that Councillor Young was coming into the room. Councillor Power and I do this, the banter, within committee, we are very good at it, we know what we're doing, we know what we're saying. As soon as he entered the room we were talking about the lunch, we directed our comments to the lunch and we said that there'll be enough left over for everyone and in response I said, "Well, that would be good." Knowing full well that this man with his paranoia would take that, would run to the media or would run to his colleagues to try and make big of it and lo and behold he has. Mr Chairman, I can assure you-----

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CHAIRMAN: Mr Shepherd, if that's true, then perhaps you should be wiser in the future and not make such banter?-- Well, with respect, why? Here we have a man who is filled with-----

If you know that he runs to the media with that sort of thing, it's rather foolish to make ammunition for him, isn't it?-- I don't believe so. I think it goes to prove to the character of this man.

All right.

MR RADCLIFF: Councillor Shepherd, we've evidence of the bloc. I think you've given evidence about this. Does such a group exist?-- No, it does not. Not in any way, shape or form.

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We've been given evidence that there are circumstances where sometimes up to 99 per cent of the time you vote in common with other members of council. That may be true?-- No, it is not. If you have a look at the chart, I think my figures with other councillors was about 84 per cent.

Yes?-- I reject the 99 per cent. I reject any assertion that I will blithely follow another councillor and follow their point of debate to reach a council decision, as would - public record would show, and there's a - anyone that attends the meetings will show quite often I will lead debate. I am one of the foremost debaters within council where I am only too pleased to offer an opinion. Sometimes I will lose by a 14 to 1 vote, and that's occurred, and sometimes it will be a close decision, but to suggest that I am a member of a group who will dictate how I will vote in council, I would not condone that and nor would I ever adhere to it.

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And on issues you have voted with Councillors Chrichlow, Sarroff and Young?-- Yes.

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And on issues you've voted against Councillor Power, for example?-- Regardless of who, yes, I will vote with the councillors on the merit. You will find now, Mr Chairman, in City Planning Committee, because of voting questions, I've now initiated that on each item in committee we actually take a division vote or record who votes for or against particular items, and those trends over the last few months, you will see that the voting trends are all over the place. Each and every time it's voted on on issues. What I will say that it is frequent for Councillors Chrichlow, Sarroff and Young to vote together probably more so than the people that are the subject of this questioning, and why that is occurring is if it's of a import to the council, or to the city, where we have to introduce a new charge or a new legislation or a new policy about pit bull terriers, for example, the majority of councillors who are logical and sensible will weigh up the pros and cons and vote accordingly based on the officers' recommendations for what is right for the city, and we will take that with a heavy heart, but we will vote that way. Quite often I have seen those three councillors I've mentioned deliberately vote against us so that they can take the negative point of view knowing that we will get the item through on a positive vote, knowing that they can go to the media and generate a media story based on their fight for the underdog, and, Mr Chairman, that happens frequently, and that

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is not a good thing to have in council. At the moment the majority of councillors, 11 or 12, will often vote for the sake of the city, but time and time again you will see these three raising negative items, raising negative votes purely to get publicity, and that does happen.

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Councillor, I'm just tidying up a few things. Would you look at this document, please? Is this a document which Councillor Molhoek has just provided to you only yesterday or this morning concerning his knowledge of the 30,000 and \$50,000 situation?-- Yes, it is. Yes.

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All right. I tender that document.

WITNESS: Is there anymore on that?

MR RADCLIFF: No?-- Oh, I'm sorry.

Councillor Shepherd-----

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CHAIRMAN: Yes, that will be Exhibit 284.

ADMITTED AND MARKED "EXHIBIT 284"

MR RADCLIFF: Would you - could you look at this document, please? It's a document which has been sent to you by Councillor Sue Robbins on the 6th of May 2004?-- Yes.

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The third last paragraph and fourth last paragraph demonstrates that things were not always happy between yourself and Councillor Roberts?-- That is true, but you've got to realise also that in a council the size of ours everyone has an ego, everyone has an opinion. Sometimes those egos clash.

And so at that point in time in May 2004, you weren't the best of friends, so, therefore, it seems to me that it would be somewhat silly to say that you were in a group of eight together?-- That - yes, that could be construed from that. I think we always remained friends. We just had a difference of opinion. This lasted for - oh, I don't know, probably - probably three or four weeks of this particular instant where in a fleeting comment at a function I was at, the journalist took my comments out of context-----

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Yes?-- -----which were critical of Councillor Robbins. They certainly weren't intended to be, but Councillor Robbins took offence to it, so things were a bit frosty for a while, but they were certainly rectified and I did, in fact, apologise to her-----

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Yes?-- -----over those comments. But it certainly would indicate that no domineering bloc existed because we were very much individuals.

I tender that document.

CHAIRMAN: Exhibit 285.

ADMITTED AND MARKED "EXHIBIT 285"

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MR RADCLIFF: Thank you. I'll deal now with the Sunland rates issue. There's some minor controversy about who actually moved the motion. In one document, and I can't point to it - in one document it's suggested that you moved the motion, in another document it's suggested that Councillor Molhoek moved the motion. Who, who did, or what were the circumstances of that?-- Okay. If - if I can give an explanation, Mr Chair? I believe the document that referred to me was someone obtained a tape recording of the transcript of the meeting and - and their secretary transcribed that recording. Mr Chairman, at that particular point in time our good mayor, the new mayor, Councillor Clarke, was new to the role and he, I feel, was not up to speed with the way that Councils or councillors operate. When we do get into banter and debate, we're very fast. Action moves along, depending on the level of debate and it is also very hard, as chair, or as mayor, to be able to keep that meeting under control and on track. And I can say that he successfully does it now and good on him, he does a good job. But at that particular point in time, where the matter was being heatedly debated I spoke up and said, "Mr Mayor, I'll move the recommendation." And I believe Councillor La Castra seconded it, but that was not picked up on at that point in time. The debate continued to flourish and then the mayor called for the motion and Councillor Molhoek actually moved it. That's the way the minutes reflect because that is the person that the mayor recognised as moving the motion, but obviously from the transcript, someone has taken my name out of there as moving the motion. The only way that the mover can be absolutely recognised is by the way it's recorded in the minutes and then subsequently endorsed by Council at the following meeting.

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Yes. Let's deal with the issue of the Sunland rates? We've heard a lot of evidence about it. Can I summarise it by saying that you considered the issue independently and came to a conclusion knowing the effect of section 1021 of the Local Government Act, that Sunland was entitled to a discount?-- Yes. I - I believe there was grounds for Council to use its discretion-----

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Yes?-- -----which we do from time to time and I do oppose what Councillor Sarroff has said. It has come to my attention on many occasions where, with grounds, Council has given rebates or at least given the discount on a rate notice for mitigating circumstances. In this particular case we were provided with the background, we were certainly provided with the officer's recommendations, but given the background to it, I felt that

there was a discretionary ability to grant the refund of the discount. We weren't refunding the rates in any way. All we were doing is refunding the discount that was allowed on that rate notice, so in fact the gentleman, the company, paid their rates, paid their lawful rates, but in our opinion, or in my opinion, were eligible for the discount.

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Were you aware, at any time, of the - you've heard evidence about this, this \$7,700 top up that Sunland gave? Were you aware of - that that had occurred at the time?-- Not at the time, not even up until now. I only heard about it during the - these proceedings.

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So, it harks back to your previous evidence that you knew nothing about what took place with - with respect to the Barden trust?-- No. Absolutely not.

All right. I'll deal with the Yarrayne matter, as it's been put. You were the chairman of the Planning committee when this was dealt with. Can you tell us - you're aware of the allegations made by Councillor Young in respect of this, can you tell us what transpired in respect of that subdivision, or that - that development?-- Basically, before committee was a development application for a residential subdivision that had a large, what we call, Mr Chairman, a swale drain, which is an open expanse of cleared land that has a depression in the middle, or a drain through the middle that carries normal water flow during storm events. Swale drains are quite a useful purpose in that they maintain vegetation, normally grass or reeds, that filters out nutrients to allow the water to leave the site in a stable condition and therefore won't contaminate any other surrounding areas. Normally Council would condition that a wet detention basin or a dry detention basin be installed on the estate to capture that water in a storm event, so that any nutrients would fall out of suspension, fall to the bottom of the pond and then be collected over time. I hope this isn't getting too technical. In this particular case it was argued by the applicant, but also by Councillor Power, who was the division Councillor, and had an intimate knowledge of the area, that to have a detention basin, which is quite a large structure, on the site wasn't necessary because there was already a detention basin on the other side of the road, downstream. He argued that logically the water would be retained within that detention basin, the sediment would fall out and that we would condition the developer to maintain that detention area under their normal maintenance regime. Now, that's the sort of suggestion that I would expect to hear from division councillors. When we go into debate in committee I always throw to the division councillors to give the committee their impression, or their interpretation of each application because they are representative of the people and they are representative of their area. They should have a working knowledge of their area.

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CHAIRMAN: Mmm?-- In this case it was decided that the officer's recommendations would be changed to reflect this detention basin off site. I could see nothing wrong in that.

It was a logical outcome. In all of my dealings as chair I try and maintain a very high level of logical assessment of outcomes because quite often, Mr Chair, the officers whilst they give a report, that report will be controlled by the Planning Scheme or other legislation that's in place. They are the words that they are required to give. It might not be in their hearts, what they would like to see the outcome, but that is what they are required to give because they know that ultimately the City Planning committee and then Council makes the ultimate determination. That's our role. That's our job - is to assess all of the aspects, not only the development assessment undertaken by the officers, but external implications or ramifications to those sites and in this case, that was the decision that was made.

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Now, Councillor, there's circumstances where an officer will make recommendations to your committee and is it a usual circumstance that you can impose additional conditions in respect of development applications?-- Absolutely. And usually.

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Yes. So it's a frequent occurrence that you make it harder than what the Council officers recommend?-- Absolutely.

Why?-- As I said, it - it goes to the personal knowledge of the area by the Division Councillor, it goes to a changing trend that Councillors will be aware of within the community and it goes to an expectation of the community. Now, as I said to you earlier, we often will be lobbied or approached by people opposed to a development and they will quite often say, "Look, we don't want this development in its current form. However, if we can achieve a better outcome" - then that's a satisfaction to them. So Councillors are mindful of that - that practice. They're mindful that developers obviously are going to try and get the highest possible yield on the site with as least possible cost, they're in business. So it's a juggling act, if you like, to try and come up with a sensible solution. One that's happening more frequently in the Coomera area over the last six months has been the inclusion of bus shelters and set-down zones. The officers are not required to put in the requirement for bus shelters and set-down zones but Council through the committee on each application is saying as a matter of course now, how many bus shelters do we want, how many set-downs do we want, to the stage now where Council officers in their assessment of anything in the Coomera area are now asking for an opinion before it goes to committee in regard to where are the bus routes, they're seeking that opinion from our transport managers, where are the bus routes in the area and perhaps now we should be conditioning that bus shelter and set down. Now, that's something that the applicant wasn't proposing, it's something the officers weren't proposing but it's something the committee was putting on as an additional condition.

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Councillor Young suggested that there was some form of protocol that you should not speak to anyone who wants to do a development in his division but that you should refer them to him; is that - is he correct about that?-- No. No, he is not.

In the case of Councillor Young if someone from his division approaches you in your position as head of chair - chair of development - what is the process that you adopt?-- In Councillor Young's division specifically I will always refer the applicant to the officers for a comment and then to Councillor Young. Given the level of animosity that seems to come from Councillor Young, I would be foolhardy not to do that. So in each and every instant I refer them to the division Councillor. I can say that a few of those have not seen fit to see the Councillor. They were unhappy with his attitude and simply did not want to see him.

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As I understand it a developer can come and speak to you about a proposal and we've heard evidence from developers about this that they do that to gauge whether they're going to have great difficulties or an easy path towards getting their development approved and to assess - obtain an assessment as to what is likely to be the outcome and that's a commercial circumstance. As I understand it, then the application is made and there is a process that is undertaken by the Council officers where they are assessing; is that correct?-- Yes. It's more convoluted than that but that's a basic assessment in that-----

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I'm trying to shorten things, you see?-- Yeah. There is - there's two major processes, Mr Chair, one is a code assessable application, the other is an impact assessable application. Impact assessable is the most stringent, the highest form you can have, it requires public advertising so the officers will work with the applicant to progress the application through an information request period where they get all the information they need to assess it. They then go to an assessment period where they determine the application against the planning scheme or any other regulations-----

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CHAIRMAN: I might be able to cut this short. Mr Radcliff, I have practised-----

MR RADCLIFF: No, I understand that.

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CHAIRMAN: -----in the Planning and Environment area. I know how it all works.

MR RADCLIFF: I will cut it a little bit shorter to this, there comes a decision making process that the Council officers undertake and that could take a week, could take months?-- Yes, that's correct.

What is your practice once they have got to the stage of collating everything they need and they've gone into this decision-making process; do you communicate with them?-- No. No, there is a standing rule that the officers are aware of and in particular my personal assistant. Once it's in the decision-making stage I will not intervene and whether it takes two months or 12 months the offices must have a free hand to make that determination that they will present to Council. Their full report comes to Council. That is when I

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get the opportunity to review their report and make my own determinations but I - every time - tell developers that I will not get involved during the decision-making stage.

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All right. Just a very brief peripheral issue. Mr Kelly gave evidence and I wasn't here concerning some comment that you made about - to him after he returned to the Council after he was unsuccessful in the election - the by-election, I should say. Was Mr Kelly returned to the same position or a similar position in the Council?-- Absolutely. Nothing changed. Nothing changed. What we had, Mr Chairman, was situation where as chair of committee I initiated through our media department to have a journalist simply assigned to the city planning committee meetings so that stories could be written for media releases from that committee. I felt that was a good way to promote the city and promote the agenda putting - being put forward. Now, each of our bank of journalists are assigned to different committees within Council. Mr Kelly was appointed to a city planning committee. He stood for election so at that time another journalist was appointed, Anna - I can't even think of her surname, I apologise - was appointed to committee. She was an exceptionally good journalist and when Mr Kelly came back after the election - by-election I'm sorry - and was unsuccessful he said that he would like to come back to the city planning and I simply said well, we have Anna doing the job now. She was a very proficient journalist, I could see no reason to change that back but Mr Kelly I believe took some offence to - to not being the planning committee journalist. It didn't change his standing in Council, he was still one of our journalists, he still is. There was no salary change, there was no designation change to his job, it's just that he wasn't assigned to city planning. That's it.

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So there was no promotion or demotion, he was returned to the same position?-- None whatsoever.

There's one final document I seek to tender, which is a - it's not in Councillor Shepherd's bundle, it's his register of interests, which is almost a mirror image of what-----

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MR MULHOLLAND: Was that memorandum tendered from Ms Roberts?

MR RADCLIFF: Yes, it was.

CHAIRMAN: Yes.

MR MULHOLLAND: 205?

CHAIRMAN: No, I don't think - the one from - the letter from Councillor Molhoek came in.

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MR RADCLIFF: Molhoek was-----

MR MULHOLLAND: I don't know that it was formally marked.

MR RADCLIFF: I would ask that it be tendered if it-----

CHAIRMAN: Yes, 285, it is, 285, yes.

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MR RADCLIFF: And then could this one be made 286. I don't need to ask any questions about it.

CHAIRMAN: Yes, this will be 286.

ADMITTED AND MARKED "EXHIBIT 286"

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MR RADCLIFF: That's the evidence-in-chief of the witness.

CHAIRMAN: Thank you. Yes, Mr Mulholland?

MR MULHOLLAND: Mr Shepherd, just in relation to this meeting at quadrant on the 16th of December 2003. You believe that you were invited to that meeting by Councillor Roberts, is that correct?-- I don't have a clear recollection but I - I - in my mind I seemed to think it was her, yes.

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Right. And, you did become aware at the meeting of the document, which I think you said was left on the table, and I'm not sure whether you said it was spoken about, but it was left on the table by Mr Morgan, that's exhibit 14?-- Mmm-hmm.

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Now, could I ask you to have a look at exhibit 14, please. I have a copy. Now, you saw that and glanced through it at least?-- Yes, very - very quickly.

It wouldn't have taken much of a read to understand that this was about funding for a select group of candidates?-- I didn't read it as such. What I read it as was a campaign strategy that was being put forward.

Well, if you look at the first page-----?-- Mmm.

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-----under "Objectives", the first dot point is, "To achieve consensus among a select group of councillors and candidates that acknowledge public concern...", et cetera. So, there's a select group of candidates-----?-- Mmm.

-----there's a reference to a joint commonsense approach to solutions and there's a reference to Quadrant. And, if you were simply to glance through the document, you would see on the second page a reference to the resource. The source is, "The extent of the resource will naturally depend on the size of the funding achieved". So, there's a funding involved in relation to this group of selected candidates isn't there?-- No, no.

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There's not?-- I would - I would reject that because this document, as I said, was placed on the table. I don't believe it was actually discussed while I was there and, as I said, I

left - did leave the meeting early. But, this is - knowing Chris Morgan the way I do, this is the sort of thing that he would prepare as a discussion topic. It's not in any way, shape or form a binding document on anybody and I don't believe - because we were all there to give opinions to prospective candidates, I don't believe this document was actually discussed at length at all.

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Well, you see we know that, in fact, what happened was just that. Funding was collected for a group of selected candidates, some of whom received direct funding. In fact, in the early part of the operation of the account, there was some \$90,000 received directly by the candidates from this fund. And then, also, as you would appreciate, Quadrant received money from this fund in relation to the campaigns that these people were running. Now, we know that. But, I'm saying to you that even at this stage, back on the 16th of December, someone as experienced as yourself, Mr Shepherd, would simply have to glance at this, look around the room and know that this was about the funding of a select group of candidates and there was going to be some joint approach by the selected candidates. Now, are you saying you didn't get that impression of that from the meeting?-- I am saying exactly that. I did not get that impression from the meeting. My impression from the meeting was that I was there to speak about my experiences in the previous election in 2000. No issues of funding were discussed. I don't believe this document was discussed and when you say that we know that funds were made available to the trust, I did not. I now have read some transcripts, but not all, and - and I don't really enjoy your comments that I am supposed to understand that this amount of money was raised for the trust. I did not know.

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Look, I'm not involving you in receiving money from the fund. What I am asking you to accept, and I'm suggesting to you that you would have appreciated, even though you did not become part of it, and we'll go to some evidence about that. But, on the 16th of December, you went along to the meeting, you spoke to this group. You saw this piece of paper there. You knew Mr Morgan and there's a reference to selected candidates, and there's a reference to funding. Now, are you saying that you did not conclude from this that this was something about this group of candidates being - receiving some funding?-- Mmm. Okay. If - if we can take it in that context. First of all, I didn't put a lot of credibility in this document. It was sitting on the table and therefore it's not something that I'm overly concerned about because I am not there to be a candidate, to be a part of this group. I am there simply to give my interpretations. I would presume that someone, somewhere, would have to raise funds to assist with campaigns but who those people were and what funds were raised, I had no knowledge.

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Do you remember at the meeting the view being expressed that by sitting councillors of concerns about the incumbent Council and the desire to seek quality candidates, replace some of the existing councillors?-- I'm not-----

Do you remember something like that being said?-- I can't remember that that was specifically said, no, and it was a long time ago. I personally had concerns about the quality of some councillor's actions and the quality of candidates, I would admit that. We all had concerns. But, Mr Mulholland, at that point in time, as I said earlier, I'd been undergoing a very, very, extensive campaign against me by a small select group in the community who were determined to "Turf Ted", as is shown in some of their documentation. So, I was more concerned about my own reputation, about my own re-election. In my mind, when I showed up at this function, it was simply to give my impression and then to leave. In fact, I almost wasn't going to attend but, because I'd been asked to, I felt an obligation. But, apart from that, I didn't want to be involved. I had too many other things to deal with and to think about to be involved.

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Just deal with what you can remember of the meeting. Do you remember Mr Power speaking?-- Yes, yes, I remember specifically David saying words - Councillor Power saying words that all candidates should maintain their independence at all times and vote as they see fit and that was very significantly said.

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Yes. Or was it something to the effect that it is necessary to maintain an independent stance?-- That could be right. I couldn't remember the exact words.

Was the view expressed by Mr Power, Ms Robbins or any other person who was present that there was a concern about the existing Council and the way it operated?-- Honestly, I can't recall that.

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You don't know whether it was or wasn't?-- It was a general discussion. I can't remember specifically if that was-----

Was it mentioned, do you recall, of the desire to see some councillors replaced because of the difficulty of the existing Council working?-- I can remember that it was mentioned that there were other groups out gathering candidates against sitting councillors that I knew so it would follow that certainly there was a counter suggestion that some councillors were not performing and in fact were disruptive to Council process. Whether it was specifically that they should target individual ones, I am unsure but I am certainly aware that councillors that have been mentioned in this forum were out actively supporting candidates against me.

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Now, Mr Morgan assisted you in your campaign. You would have certainly become aware of the fact that there was a fund being made available for selected candidates?-- No, I was not.

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You never had any such conversation with Mr Morgan?-- Not that I can recall but, no, I would not-----

What about your relationship - what was your relationship like with Mr Power and - or Mr Power during this period?-- I have a lot of respect for David Power. He's-----

What was your relationship like during this period with Mr Power?-- If I can say one word, fleeting. As I said, we were in a very - in a great deal of turmoil about our re-election. There was public concerns being expressed in the media that I would not perhaps be re-elected so my interaction with the other councillors, while supportive, was fleeting given that I had other things to be concerned with.

We know that up until the 4th of March 2004, the campaign fund which was used to support selected councillors was controlled by Mr Power and Ms Robbins?-- I don't know that the fund was ever established to support selected councillors.

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I'm suggesting to you that - what I'm saying to you is that the evidence before the Commission shows that a fund which was at Hickey Lawyers, that is money within a trust account of Hickey Lawyers, was controlled by Mr Power and Ms Robbins up until the 4th of March 2004. So for virtually the whole of the campaign, that is what we now know to be the case. Did you know that?-- No, I did not.

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Did you ever have a conversation with Mr Power about that?-- No, I did not.

You mean to say that you never asked him about whether or not he had anything to do with such a fund?-- No.

And he never mentioned it?-- To the best of my knowledge, no.

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And the same exists in relation to Ms Robbins?-- Probably more so in that her office was a little bit different to mine so it would be unrealistic for her to talk about it but, no, I did not.

Is there any reason why you would think that that would not have been mentioned to you having regard to the fact that you attended the meeting on the 16th of December?-- No, there is no reason for them to mention it to me. That's their business but, as I said - and Mr Chairman, if I can really impress upon the Commission, the campaign against me was intense. It was so intense that I had people with placards in the Village Green abusing me and asking people to honk horns. I had scandalous letters and e-mails being sent to me. It was a concerted effort - I was well and truly involved in my own circumstances to the - and still conducting Council business - that I certainly didn't want to get involved.

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I'm not doubting that you were and that you were focussed upon your own election but it does appear that you were - had quite a deal to do with Mr Morgan who was involved, you see, in this same campaign but, apparently, you and Mr Morgan didn't have discussion about it?-- No, not at all.

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You've been asked about some e-mails and you have provided, in response to the notice to discover, e-mails which Mr Radcliff took you to and, in particular, e-mails of the 11th of January 2004. You said it started with an e-mail of the 5th of

January and, again, I think that is an e-mail which you have provided to the Commission?-- Mmm.

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What I want to ask you about is about these communications in January. You said that at this time you understood, and you wanted to make this plain to Mr Morgan, that your wife and yourself would be making decisions in regard to your own campaign and that the funding in relation to your own campaign would be supplied by you. You weren't interested, as it were, in any funding. Is that right?-- Mmm.

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Would you answer - just the record has to record an answer-----?-- I'm sorry. I'm sorry. Yes.

So you did become aware of the fact that there was a fund which you might be able to use?-- No.

You didn't?-- No.

Well-----?-- What I - what I am saying is with Chris preparing scenarios for a campaign-----

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Yes?-- -----I wanted specifically to say to him that I did not need funding. I did not need him to run out and source funding. Whether there was a fund or a trust or whatever in place, no, that was never discussed nor intended.

Yes. Well, I think what you said was something to this effect, that this was the way in which Mr Morgan would proceed. He'd prepare some material, talk about cost and indicate that he might be able to provide funding. That was the way in which you understood it?-- Yes, he's a professional marketer so any campaign or any promotion activity that he would do with a client would involve the preparation of a program, the preparation of draft material and suggest funding arrangements. Now, it had no indication of a trust or a joint group or anything like that, it was simply the aspect of possible funding.

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Were you concerned about your association with this group of candidates whom you had met - leaving aside the incumbent Councillors who were present - on the 16th of December 2003?-- Was I?

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Were you concerned about being associated with them?-- Yes. I was concerned about being involved in some sort of joint promotional activity.

And you were advised on the 16th of December you said from - by Mr Moran, is that right?-- Mmm. Sorry, yes.

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That it wasn't really a good idea to be involved?-- Yes.

Involved in what?-- In any group promotion.

Did he say why?-- I don't believe so. We've always maintained our independence as a Councillor and as going into campaigns. During the time as I said with this adverse publicity and

reaction that I was getting from these groups it was important that I maintain a profile which is uniquely my own. I didn't want to get involved in other promotional activities that might involve other candidates because as I said earlier my community is very unique, it has to be dealt with differently and separately to the rest.

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You told us that. But you'd gone along to the meeting, you'd spoken to these candidates. Mr Power, whom you knew was there. As was Sue Robbins. When you spoke to Mr Moran did you say, well, Mr Power was at the meeting. Sue Robbins was there. Mr Morgan was there who you knew very well and had sufficient confidence in to use in your own campaign, did you say that to him-----?-- But-----

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-----what's the harm in - what's the harm in being part of this whatever's going on, this campaign?-- No. I reflected his point of view and specifically we spoke about joint promotion or linked promotions. Our area's so much different to theirs it can't be a commonly run campaign, it's got to be an uniquely independent campaign. So we more spoke about Mr Morgan's ability to do promotional activities, to prepare documentation that is generic whereas we wanted to maintain our uniqueness.

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There's evidence to suggest that Mr Power had asked Mr Ray, Brian Ray, the developer, to be involved in gathering funds for the purposes of this fund. Now, you didn't know that?-- No, I did not.

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And that in fact that is what happened. You didn't know that developers were being approached?-- No. I would anticipate that at election time everyone would be approached in some way but that would be an understanding that it would happen but specifically that he was approaching Mr Ray, no.

There is - did you approach at any stage Mr Ian McLean?-- No.

Do you know Mr Ian McLean?-- I do, yes. He's the managing director I believe of Nifsan.

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Nifsan. Yes. You see, there was a - there's a document which is dated the 24th of November 2003 and we've heard some evidence about this. It was actually noted on the document that you Ted to call Ian McLean. Did any - were you spoken to by Mr Morgan or anyone else to call Ian McLean in relation to funding?-- Okay. First of all, no, I wasn't. Second of all I wasn't aware of that notation until I actually saw in transcript. At the time I mentioned to my representation here that who actually is Ted, is it myself? That hasn't been identified. No, I wasn't approached and, no, I would not approach Mr McLean because I knew specifically at that time that Nifsan would not support any candidates. Nifsan were of an opinion that they would not support election campaigns, that was fairly widely known, so I don't know why that reference is there.

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Well, the evidence was from Mr Morgan, as I recall it, that it was Ted Shepherd, that is what was understood would occur. You say that no-one asked you to approach-----?-- No, they did not. They did not.

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-----Ian McLean. But you did know Ian McLean?-- I know Ian McLean, yes.

Now, I want to take you to-----?-- Can I just add, Mr Chairman, Ian McLean was involved in Nerang Community Association and Nerang Development Advisory Committee projects and also there was a Nerang Summit. I knew Mr McLean through those activities not through any others.

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Any rate, your position I think is this, and always was, that you would not have been part of what we know occurred here - that is, a common fund being used by selected candidates; you wouldn't have been part of that?-- No, I would not.

And you wouldn't have been, why?-- Because I at all times consider that my campaigns are unique. I have many other needs to other people, I don't want my good work in the preparation of my literature and my leaflets to be used by any other person. I suppose I'm a little bit selfish in that regard. But we have a very good campaign committee that puts together very good output and I just simply wanted to maintain my independence from anyone else in regard to those activities.

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Could I ask that Mr Shepherd be shown an email which is part of Exhibit 189? Sorry, 139. These are the emails behind the divider correspondence file for Mr Shepherd.

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CHAIRMAN: Are you changing that to another exhibit?

MR MULHOLLAND: It's Exhibit 138. We had the wrong exhibit. It's the Quadrant - on the Quadrant.

CHAIRMAN: Yes.

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MR MULHOLLAND: Would you just turn over to an email of Thursday, the 8th of January 2004? Your counsel took you to a number of emails. This was not one of them. The emails he took you to were the 11th of January, and you did refer to an earlier email. I want you to have a look at this one. It's Thursday, the 8th of January. Have you got that?-- I believe so.

It's from Ted and Sue to Chris Morgan?-- Mmm-hmm.

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And it's election program?-- Yes.

This email doesn't seem to have formed part of the material that you provided to the Commission. Now, what's the reason for that?-- I have no idea. I'd probably suggest it was no longer on my computer.

All right. Well, just remind yourself of this one. It's, "Hi, Chris. I've finalised what I think is our winning election program based on my ultra-conservative approach", et cetera, et cetera. Just read down and then can I ask you to look at the paragraph of two lines? "Additionally, by spreading the work around, I can dissociate myself from the other campaigns. I am nervous that too many people know who is involved. Probably I am just paranoid"-- Mmm-hmm.

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Now, you are indicating there that you want to dissociate yourself from the other campaign. What other campaign?-- That's precisely what I was alluding to just before. I am very concerned that other campaigns would use my promotional material that I put together with my campaign committee to be used by them. It's very important that anything that you use - any ideas that you come up with, you keep to yourself so that it benefits your own campaign and not others. Specifically what I'm associating - dissociating myself from is any of these prospective candidates that Chris may be working for preparing a campaign strategy. Well, I wanted to be dissociated from it.

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But it's more than that, Mr Shepherd. The next sentence is, "I am nervous that too many people know who is involved"-- Yes.

What's that mean?-- There are - there were candidates there that I indicated I distrusted. Now, with-----

"Too many people know who is involved"-- Yes. Do you want me to finish?

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Yes?-- Thank you. What I have here is a situation where if I could draw you to the level of animosity in the community generated by a select minority group against me, I am extremely nervous about any of these people getting information about my campaign that would affect its outcome.

That's not what it says?-- It is exactly what it says.

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Read it. Read it. It says-----?-- It is exactly what it says, and you've got to take this into context. This is my words, not yours.

"I am-----?-- These are my words.

Well, yes-----?-- And I am nervous that too many people know who is involved. I am nervous that too many of these candidates that Chris Morgan is talking to are involved in his connection with me.

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Know who is involved. "Know who is involved" is a reference to the fact that Mr Morgan is supporting you in your campaign?-- They-----

Doesn't mean that, surely to goodness?-- Well, I'm sorry, Mr Chairman, but, yes, it does.

I am-----

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CHAIRMAN: Could you explain that again? I'm not following it. I think what you said was a little bit different from what Mr Mulholland has just said?-- Well, Mr Mulholland is making an accusation that he'd like me to agree with.

Just explain to me again what it is you say that was said?-- With Mr Morgan working campaign strategies for a number of candidates - and I don't know-----

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That's the people who were there on the 16th-----?-- Well, it may be that, but it may be a bit more. I am unaware of who Mr Morgan is actually talking to in regard to being a candidate.

Well, wouldn't you just ask him?-- No.

But did you think he might have been acting for some of these people who were campaigning in your electorate against you?-- That is a possibility.

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Goodness me, you would ask him that, wouldn't you-----?-- No.

-----before you'd allow him to do your work?-- Because this is the way I write my emails, Mr Chair.

This is the way I would say to Chris, "I don't want you to be heavily involved in my campaign because of the people that you are talking to." Now, Mr Molhoek, I already said that I had some concerns about him. Now, I don't know who Mr Molhoek would talk to. I hadn't met Pforr and Betts and Roxanne Scott and Rowe until that night. I don't know who they were aligned with, who they - what organisations they were in or who they were talking to, and-----

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But who's the - sorry, who's the "too many people" who know who is involved?-- That's them.

Then who is involved?-- Them, again. What I'm trying - I'm sorry, Mr Chairman, what I'm trying to say there is I personally do not know the network of people that these are connected with, that these candidates are connected with. For all intents and purposes any one of those could be members of - and if I can use the organisation, Gecko, which has far reaching tentacles right across the Gold Coast. Any one of those people could be a member of Gecko and reporting back to Gecko on my campaign strategies. That's my paranoia. And if I can, I have numerous newspaper articles and emails from these people who've set up, as you've tried to investigate, pseudo organisations, Division 9 Civic Action, Residents Rally, these are all organisations that this Gecko people have put in place and I don't know who these candidates are that Chris Morgan was talking to, but I don't know his network. That's my paranoia.

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MR MULHOLLAND: Let me just put this interpretation to you and you tell me how wrong it is, that what is referred to by you here is the too many people is a reference to the public, too

many of the public know who is involved and is a reference to the identity of the people present at the meeting on 16th December?-- No, I reject that totally.

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That is that this is a reference to a group of selected candidates being supported by funding and what you are saying that you're nervous that too many people are involved and you want to disassociate yourself from it?-- No, no, no. Totally no.

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Well, this is your campaign director that you're speaking to - sorry-----?-- No, it's not.

CHAIRMAN: No, it's Morgan.

MR MULHOLLAND: This is your - this is a member of your campaign committee?-- A member who doesn't attend that often and has a specific role to prepare a promotional leaflet, nothing more.

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So Mr Morgan is in the know about what this really means, is he?-- I don't know whether he is or not but this is the 8th January whereby we follow it up with the emails of the 10th and 11th January, where I specifically say to him in bold letters, "I do not want to be involved with any other campaigns".

Yes. Would that be an appropriate time, Mr Chairman?

CHAIRMAN: Yes, thank you, 2.15 thanks.

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THE COURT ADJOURNED AT 1.08 P.M. TILL 2.15 P.M.

THE HEARING RESUMED AT 2.18 P.M.

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EDWARD LLOYD SHEPHERD CONTINUING EXAMINATION:

MR MULHOLLAND: Mr Shepherd, can I take you to the other emails that you referred to - this is in January of 2004. You remember those emails that the-----?-- Yes, I do. Unfortunately I don't have them at the moment, I'll have to find them.

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Do you have them there?-- Yes, January 11.

All right, now, the first message is at 10.02 a.m. This is from you - when it says Ted and Sue-----?-- Yes.

This is an email from you?-- That's correct.

All right, and then later on there's one from Chris Morgan to you. The-----?-- That's actually the reverse, one from Chris Morgan to me is the previous day.

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I'm sorry, the 10th is the one that I'm looking at, one of the - on the bottom of that page?-- Mmm.

Now the last paragraph, "Although we had set up your campaign as a completely and separate account here at Quadrant, it is obvious that you are quite concerned with a possible association with other candidates." Again the other candidates, are they the candidates who were present at the meeting on 16th December?-- That's correct.

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And the candidates who were present on that day to your recollection were Mr Molhoek, Mr Pforr - just tell me if you disagree with any of these?-- No, I agree, I agree.

Mr Betts?-- I agree.

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Ms Scott?-- I-----

Mr Power, Ms Robbins and Mr Ray?-- Okay. Ms Scott, I am unsure if she was there or not, and you make reference to Councillors Power and Robbins as being candidates but to my mind they were existing councillors.

Righto, incumbent councillors who were standing-----?-- Yes.

-----at the election, and there - so that's what that is a reference to. It is obvious that you are - that's the way you took it at any rate?-- Yes.

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He was saying to you you're concerned about associations with those people who you were there with-----?-- Yes.

-----on 16th December?-- That's correct.

And then the absence of any work through Quadrant should, I hope, eliminate this possibility although continued involvement on your campaign committee could possibly be equally compromised?-- Mmm.

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So again your position at this time was that you wanted to distance yourself from this group?-- That's correct.

And in reply on the next day you respond by saying, among other things - and this is the second paragraph, "With regard the other campaigns and my connection with them through Quadrant and funding," this is the campaigns for these other candidates who were present on 16th December, correct?-- Yes.

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Firstly, our campaign should be fully funded by the end of next week, et cetera. And then you refer to this interest in conversation with Max Christmas?-- Mmm.

Now what you say here is "where he was aware", so he was aware, you are saying?-- Mmm.

That you were involved with the David Power group of eight?-- No, he was aware that there was some connection between David Power and some candidates, but he was not aware that I was involved. He simply grabbed me in the - after the Council meeting and pushed himself upon me to say that he was aware. Now I gave him no indication as such.

But what you have said is, "He was aware that I" - that is you - were involved with the David Power group of eight?-- Probably a change of words if I may - more or less quoting what he was saying. He was saying to me that he was aware of it.

And do I understand that your - the conversation that you had with Mr Christmas was essentially a conversation in which he, correct or incorrect as he was - he was wanting to be part of that-----?-- That's correct.

-----of what he believed to be the case. That is to say funding available to candidates; he wanted to be a part of it, he wanted to receive some of that funding?-- That is correct.

And you just shrugged him off?-- That's correct.

And you thought you'd report to a member of your campaign committee?-- Well, mainly because of my concern and this justifies my concerns that perhaps these candidates that Mr Morgan was talking to may be speaking to other people and I wanted my campaign to be my own.

And then the next sentence, "I denied it but you need to be aware that somebody is talking already"?-- Mmm-hm.

Now, this might be read by us who don't know all the circumstances, and maybe others, as meaning that what you're indicating is that you're concerned that this is out there and this is only January. The election's on the 27th of March?-- That's right.

Is that what you're referring to?-- It is but in the context, as I've said before - is that I wanted my campaign strategies to fall when I wanted them to occur, not when some external body might be aware of them or use them.

So would you reject the suggestion that this should be interpreted to mean - that is, implicit in what is being said here is that you were involved in some way but you didn't want it to be known?-- Yeah, I reject that inference entirely, absolutely.

Now, you have been asked about two functions the first of which is the function in 2003. Now, you've seen this invitation, you've had your attention drawn to it, and in your material you have included the deposit of moneys received in relation to that function; is that correct? Do you have that material in front of you?-- No, I don't.

This is just a deposit form for the bank?-- I have some deposit forms here - yes, I'm not quite sure-----

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All right. One for the 29th of October 2003, do you have that?-- Yes.

And that has the various amounts there. The maximum amount shown of a contribution is \$480?-- That's right.

Then on the 29th is the amount of \$2,000?-- Mmm-hm. Yes.

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That is received. That's the Sunland amount. And also there's the deposit form of the 17th of November 2003; do you have that one?-- Yes.

And again these are varying amounts. The maximum amount shown as a deposit is \$240?-- Yes.

And that \$240 is from Nifsan, the company that we referred to earlier?-- That's right.

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You're sure that you didn't approach anyone from Nifsan?-- Okay, did I approach anyone from - I didn't approach anyone; they would be on a bulk mail-out list that we have so they would have received an invitation.

When I say "didn't approach anyone from Nifsan" I mean in relation to the campaign fund that I've spoken about earlier?-- Mmm, no I did not.

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Now, that - you say you know that you sent out tickets, 50 tickets, having received \$2,000; how do you know that?-- I and my wife compiled the tickets and sent them out.

But you don't have any record of doing that in relation to some of them?-- I would have a record somewhere, yes.

Would you?-- Yes.

Of sending 50 tickets out?-- Yes.

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You had a recollection of a number of people from Sunland being at the function?-- Mmm-hm.

Can you tell us who they were?-- Only that I saw Craig Treasure; I thought he was there.

Well, Craig Treasure says that he apologised?-- Oh, okay. Well, I thought he was there. I just saw people that I thought I have been introduced to that were from the Sunland group. Certainly I saw some people there from the Sunland Group but I can't specifically remember who but I actually thought Craig was there. There was a large crowd too.

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A large crowd, so you can't specifically remember anyone apart from the fact that you think Mr Treasure was present?-- Yes.

You have proceeded in your approach to this matter on the basis of information made available in the handbook concerning disclosure of election gifts, have you; have you relied upon that handbook?-- I don't believe so.

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And the reference to - at page 15 - "other items that do not need to be disclosed, the following items are not required to be reported in the return proceeds of raffles, dinners and other similar fundraising activities conducted by a candidate or a candidate's campaign committee". Is that what you are referring to in your statement in relation to this or is it something else, and what I'm asking you about is page 1 under item 3 of your statement of information. "This function was not listed on my 2004 election return as I was advised that the Local Government Act does not require the disclosure of funds obtained from a fundraising function." Where did you get that advice from?-- I'm not sure. I know that it was discussed during the 2000 election. I did read that handbook. I also have a feeling that I had read an extract from the Local Government Act, but it was always advice to me from - people at functions need not be declared, and I can't say that I had professional opinion but I suspect I did.

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Did you ever go to the division of the Act yourself or did you just simply rely upon advice that you-----?-- No, the-----

-----and the definition of "gift". Did you go to that yourself or-----?-- The Council actually sent out a letter as an information to candidates and I'm fairly confident it was enclosed in that letter and advice.

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Right. Now, was it to the same effect as to what I read to you from the handbook saying that you don't have to declare it in relation to-----?-- Well, I'd like to see the handbook.

Yes?-- I can't recall those words.

This is just Exhibit 10. Have a look at it?-- Okay.

Page 15 and the - you'll see the dot point there-----?-- So under "Other items that do not need to be disclosed. The following items are not required to be reported in the return. Proceeds of raffles, dinners and other similar fundraising activities conducted by a candidate or a candidate's campaign committee."

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Was it to that effect or was it-----?-- Yes.

Now, would that means that, so far as you were concerned, on this occasion it was \$2,000. Let's say that you sent out an invitation to a similar function as this one and you received a donation of \$24,000 so that that would be 600 tickets. So would that be, so far as you were concerned - would that be okay as well from what you were told?-- No. In my mind, I would see that as being an excessive amount, possibly one that could not possibly be achieved by that number of people attending and I would send it back or ask questions of it but

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in this particular case, \$2,000 at 50 tickets from a big organisation, I considered it to be reasonable.

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How many people attended?-- About a 150.

Well, there weren't 50, were there, from-----?-- No, no, clearly.

-----Sunland?-- Clearly. But I had no way to anticipate how many they would send.

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So is this your position that you draw a line but not at \$2,000 where it was only 50 tickets involved?-- Mmm.

Where is the line to be drawn?-- I suppose you've got to think what's reasonable and at the time I considered 50 tickets reasonable.

Yes, all right. And you also spoke about another function. I don't think I need to go to it. You have been asked about the Sunland discount and so far as moving the motion is concerned, you've explained that by saying that, well, you tried to move the motion but you weren't recognised, as I understand it, by the Chair?-- That's right.

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And so, quite properly, as you would see it, the minutes eventually show that it was Councillor Molhoek-----?-- That's correct.

-----who actually was recognised. So far as the facts of that matter were concerned, we know that there was a committee meeting on the 9th of November. You weren't present at that meeting?-- What meeting-----

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Or were you present?-- No, I need to know which committee it was, I'm sorry.

Sorry, this is the finance committee?-- No, I wasn't.

This is where the - there was a discussion, so the evidence has suggested here and there's been a good deal of evidence on it - where there was a discussion about the recommendation made by the Council officers to the effect that the discount shouldn't be granted?-- Mmm.

40

What I wanted to ask you is this, that between the 9th of November - you say you weren't present at that committee meeting - and the 22nd of November when the full Council met in regard to the matter, did you hear anything of what had occurred? That it was coming up, that - what did you know in advance of the full Council meeting?-- I think the only - I had no specific reference but I believe it may have been discussed in the meeting just prior to the Council meeting that this would be an issue that's come before us but I think that's all.

50

So it was a matter that was going to be raised?-- Mmm.

Did you know that personal representations had been made by Sunland officers - Sunland staff, a Mr Brown and a Ms Jamieson at the meeting on the 9th of November? Did you know that?-- No.

1

You knew, I take it, that the Council officer's recommendation was that a discount was not granted in those circumstances. You knew that to be the case?-- No. I believe the argument was that the Council officers felt that they had fulfilled their duty by sending it to the address that they had on their records whereas there was some discrepancy about the address being accurate.

10

Well, I'm suggesting to you that the clear recommendation by the Council officers was that this was not a - these were not circumstances which would warrant the discount being allowed and the recommendation was that the discount not be allowed. You would certainly have been aware of that, Mr Shepherd?-- Specifically, I can't recall the exact arguments put forward by the Council officers.

20

You see, the evidence is to the effect that discounts were not granted in similar circumstances?-- That's not my understanding. I'm aware of other - or not specific but I am aware of instances where we have given the discount given that circumstances might dictate.

These things may not be fresh in your mind now but what the material shows - this is Exhibit 34 - what the material shows is that the rates notice went to the address that it was supposed to go to. In other words, the appropriate form 24 had been sent to Council giving the address of this company, Carn River, and the rates notice went to that address. You weren't really aware of that or were you?-- No, I'm not aware of that particular facet. What I am aware of is that other rate notices that had gone to this organisation, which is a large organisation, had in fact gone to the PO Box numbers-----

30

Yes?-- -----whereas this one went to a floor of a building, corporate building. We were advised that it went to the wrong office or the wrong floor.

40

Yes, but the floor that it went to, level 18, 50 Cavill Avenue, was the address on the notice which had been given to the Council the previous year and the Council therefore sent it to the place it was supposed to send it?-- I would have to say that I'm unaware of that detail.

You see in those circumstances how could it be beyond the person's control, Carn River, if that were the case?-- If that were the case but I'm led to believe that there were different company names associated with this, so that - there was in general a tremendous amount of confusion.

50

You weren't aware that at this time, in November, shortly before the discount was allowed, at the Council meeting on the

22nd of November that Sunland made a donation to the fund that we've been speaking about?-- I was not aware of that at all.

1

If you had been aware of that what would you have done?-- I think they're two entirely different matters. One is a Council procedure that was confused and in question and the other one is a donation to a fund that I was not aware of. I think I would treat each on its merit. I don't know that it would influence my vote.

10

Yes. Now, is it the case that you are saying that your first knowledge of the fund being, or you became aware of the involvement of Brian Ray by publicity in March 2004, just prior to the election?-- Yes.

And is that the first time that you knew of a developer backed fund to support selected candidates?-- I'm not fully conversant with the time line, but there was media attention and speculation, so I couldn't say that it was the first that I became aware of the accusation. I don't know specifically when I first learnt of it.

20

All right. But what you did, when you - whenever it was that you did learn of it, that was through the media?-- Yes.

Yes. Thank you.

CHAIRMAN: Mr Nyst.

MR NYST: Councillor Shepherd, it is the case then is it, that-----

30

CHAIRMAN: Just hold on a minute. Sorry, Mr Nyst.

MR NYST: It is the case that Mr Power has not at any time made any suggestion to you about forming any sort of a voting block in Council?-- No. No, he has not.

At that meeting of the 16th of December 2003 he did however say to those candidates assembled that - words to the effect that he wanted to support them because he saw them as sensible, well behaved people. Is that fair?-- I don't record the exact words, but that is fairly similar to what he would say.

40

Words to that effect?-- In that effect, yes.

There was, however, no discussion at all at that meeting was there about what these candidates views were on development in the city? There was no - no canvassing of their views as to whether they were pro-development or anti-development, for example?-- No. That was never mentioned.

50

There was no suggestion by Mr Power, or in his presence, I suggest, of anybody forming any kind of group campaign or joint campaign? There was no suggestion by Power of that, firstly?-- No. It was specific that everyone should maintain their individuality.

Yes. Well, that came up in this context, didn't it, that Mr Morgan said something about a joint campaign, didn't he, and he was chipped by David Power, wasn't he? David Power said, "No. We're not interested in that, we're interested in for everybody else to remain independent." Words to that effect?-- I can't recall that, Mr Nyst.

All right. Well, do you recall this? That David Power stressed to the candidates there that they needed to remain independent at all times?-- Yes, that is so.

And that they should vote accordingly if they were elected to Council?-- That is very true.

That they should all, at all times remain independent and vote according to their conscience?-- That is correct.

And he said, didn't he, words to the effect that he was not concerned and that no-one was concerned if people, if councillors had a different view to one another, if they disagreed no-one cared but what was important was that they remain civil and well behaved about that process, words to that effect?-- Words to that effect. I can't remember those exact words, but certainly the mention of maintaining decorum in Council meetings was - was raised.

All right. Now, I understand you've said in evidence that you left early from the meeting. You left before it was finished?-- Yes.

Closed? And so I can't put you - my instructions were that you were necessarily present for this, but I suggest that at some point he, Mr Power, made reference to funding in the sense that he said, words to the effect, that the business community was keen for the Council to get its act together and we're hoping that we might be able to get them, the business community to put their money where their mouth is. Do you remember any discussion about that?-- No. I can't.

All right. You heard no mention of funding at all, is that what you're saying? Do you recall any mention of funding?-- I don't believe so, no.

Pardon?-- No, Mr Nyst.

In any event there was no talk of a voting bloc?-- No, definitely not.

Quite the opposite?-- Absolutely.

What was being stressed was that councillors had to remain totally independent in their-----?-- Yes.

-----in their thinking and in their voting?-- And at all times maintain decorum, respect for one another but certainly maintain their own point of view.

Right, and there was never any talk about anybody joining a group to promote the election of other councillors, was there?-- Joining a - could I have that again, I'm sorry?

1

Forming a group or joining a group to promote the election of other councillors?-- No, I don't believe so.

Mr Power did not at that meeting or on any other occasion ever ask you or anybody to mislead anybody, is that right?-- No, never.

10

Either in the press - to the press or otherwise?-- That's not something that I would entertain and I would know he would not ask me to do that because he would know what the answer would be.

And he didn't ask you nor did he ask anybody else or suggest to anybody else that they might or should in your presence?-- In my presence, no.

20

Nor did he suggest to anyone that they - suggest to you or anybody else in your presence that you or they make anything less than full disclosure as required by law?-- Yes, that was mentioned, that disclosure should be done as per the Act specifically and as per the instructions.

That people must disclose fully-----?-- Yes.

-----according to the Act?-- Yes.

30

All right, certainly no suggestion to anybody that they should do anything less than-----?-- No, none whatsoever.

-----what was required of them at law?-- No, not - not at all.

Now, with regards Exhibit 14, do you recall the document I'm talking about? That's the document that you said had been - you understood to have been tabled by Chris Morgan at the meeting?-- I have it before me.

40

You have a copy there, all right. Now you said in evidence with reference to the contents of that document none of this was endorsed by me and you went on to say later, "Chris Morgan prepared that document on his" - I think you said off his own bat, unbeknowns to anyone. Do you remember saying words to that effect?-- Actually, what I thought I said was that I couldn't say that he had prepared it but certainly he presented it to the meeting.

Okay, but in any event he prepared it without any reference to you-----?-- Absolutely.

50

-----and so far as you know to anybody else who was at the meeting?-- Yes.

All right. That document was not spoken to or endorsed by David Power in any way at that meeting was it?-- Not that I can recall, no.

1

He didn't purport to adopt it or in any way speak to it?-- No, no, and as I said whilst I was there it lay on the table, wasn't discussed. We were talking other issues.

Okay. Now you said in your statement that was tendered to the Commission on dot point 2, under dot point 2, the last paragraph on that page. You might not need to look at it or you might, but you say this at the last paragraph, "Other candidates for the election from other divisions and the mayoralty also asked for my guidance in running for Council and I gave general advice, as did most sitting councillors." Now there, I take it, you're talking about people asking you for ad hoc advice about what it's like to be in Council, and how should I prepare myself for it, how should I campaign it, that sort of advice, is that right?-- Yes, that's correct, yep.

10

And you've always been happy to give that advice when it's sought?-- Yes.

20

And your fellow councillors from what you see have also, at least some of them have given such advice?-- I would think every councillor at some stage has given that advice.

All right, and was it in that spirit that you came along to that meeting of 16th December?-- Absolutely.

To give advice to people that were about to run?-- Yes.

30

All right. Well, now, Exhibit - in Exhibit 282, that's the email of 18th December, Mr Moran I think it is, talks about-----?-- I'll have to - I'll have to find that, Mr Nyst, I don't have it-----

That's all right, you might not need it but if you do we'll stop and get it, but you remember they talk about real concerns regarding this like-minded candidates thing being run by Chris/Quadrant, remember that comment?-- I'll have to review it.

40

You've got to have a look at it, okay then?-- Thank you. This is coming from Mr Moran to me.

Yes, you see that first sentence there?-- Yes.

Now this like-minded candidate thing, that was something that was being proffered by Chris Morgan, wasn't it?-- I have no idea.

50

Yes, but what I'm saying, that was not something that was being proposed, this like-minded candidates thing that's referred to there, that's not something that was being proposed by David Power at the meeting of the 16th, I suggest?-- No, it wasn't, no.

All that David Power had proposed to you was that you'd give advice as you had done in the past to these people whom he Power identified as sensible candidates?-- That's correct.

1

All right. You were happy to support with advice sensible candidates?-- That's correct.

And that's all that David Power had asked of you-----?-- That's correct.

10

Come along and give some advice. He had not and did not at any stage ask you to form any group?-- No, he did not.

Nor was there any talk at that meeting about forming any group to promote the election of other councillors?-- No, there was no talk.

And he, Power, had never mentioned the formation of a group or a group of eight or any kind of group at all?-- No. It was never an intention that I was aware of.

20

Well, now, he went on to say that as regards issues before Council you said, "I vote on merit," and by that I mean - I take it you mean you vote according to your - an honest discharge of your conscience as to what you think is the right decision?-- That is correct, I weigh up the facts in the matter, I receive the reports and then make a decision on merit.

Right. And Councillor Power has never asked you to do otherwise, has he?-- I don't believe so, no.

30

He's never asked you to in any way compromise your honest discharge of your function?-- No, he would never do that because he knows that I would not.

Pardon?-- He would never do that because he knows that I would not.

And he never has done that?-- No.

40

Moving from that point I suppose on to the Sunland rates issue, you approached that exercise, did you, in Council, honestly and according to your conscience?-- Absolutely.

Right or wrong - whether you ultimately got the decision right or wrong - the decision you took was according to your honestly held opinion?-- I don't think I ever make a wrong decision, Mr Nyst.

50

No, I wasn't saying wrong I'm saying - well-----?-- You said right or wrong. I believe that the decision-----

But whether others might now think or perceive or argue that it's right or wrong you - you took the decision honestly and according to your conscience?-- That is correct.

Nobody suggested to you that you should vote in favour of this discount because Sunland was some sort of favoured species-----?-- No. 1

-----or that they were donating to any funds or-----?-- No.

-----being asked to donate?-- People know that that is not the way I operate so they would not ask that.

All right. You just listened to the arguments that were raised and on those arguments you honestly thought well this is the right decision?-- That is correct. 10

And you voted accordingly?-- I felt there was enough confusion, there were statements being put forward, I weighed up the arguments and the reports and I voted accordingly.

Thank you, sir.

CHAIRMAN: Yes, Mr De Battista. 20

MR DE BATTISTA: Councillor Shepherd, in respect of that meeting at Quadrant on the 16th of December can I ask you whether you're able to positively say that Councillor La Castra was not in attendance at that meeting?-- Positively say that Councillor La Castra was not in attendance. I would suggest to you that he was not but I couldn't positively say. There were so many people in the room, it was hard to tell. 30

All right. Now, you say you're not sure if Ms Scott was there, is that right?-- That's correct.

Did you ever meet Ms Scott at a later point?-- No.

Has my client ever suggested to you that Ms Scott if elected would form part of a voting bloc?-- No.

Has he ever suggested to you that Ms Scott if elected would give you support in Council on issues?-- No, not at all. 40

Now, Mr Morgan never expressed to you at any stage or never suggested to you at any stage that my client would form part of this group of commonsense candidates?-- No.

His name was never included or was never mentioned to you by Mr Morgan in that context?-- No, it wasn't.

And finally, Councillor Shepherd, the suggestion's been made by Councillor Young that my client forms together with you a member of a voting bloc; can I ask what your view is of that statement?-- I think that your client Councillor La Castra is a great person and a great Councillor. I've never been required or incorporated into a bloc where we would vote likemindedly. He has his opinion, I have mine. Quite often we will differ on those opinions but generally we share the same philosophy. I would say that he is a dedicated 50

Councillor and we only vote in concurrence on those issues where we have the same feeling on those issues.

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Thank you, Councillor Shepherd.

CHAIRMAN: Mr Mulholland. Sorry, did you have anything?

MR RADCLIFF: I briefly have two points.

CHAIRMAN: Yes, I'm sorry. Yes.

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MR RADCLIFF: Councillor Shepherd, can I hand you the three emails to which you've been referred - that is, the one of the 8th, the one of the 10th and the one of the 11th. Now, Mr Mulholland took you to the second last paragraph in the email of the 8th, you can see it's marked there - that's the one about your concerns. Then if you turn to the email of the 10th which is the other one that's got the sticker on it, is the marked paragraph there the one where he says, "I note your concerns about the other candidates," is that a direct response to the first email, the email of the 8th?-- I am sorry, I can't see where it says, "I note your concerns."

20

Sorry. If you look at-----?-- This is of the 10th of January?

Yes, the last paragraph. It states there, "Although we had set up the candidate's completely separate account here at Quadrant it is obvious that you're quite concerned with a possible association with other candidates." That's in fact answering what you hoped to say in the previous-----?-- That's right.

30

-----email, isn't that the case?-- In the email of the 8th, yes.

Yes. The email of the 8th is a little bit clumsy in the way that it's presented?-- Thank you for that.

40

But that's - he obviously knew that your concerns were about association with other candidates?-- That is correct.

That can be put aside for now, Mr Shepherd. The other question I wanted to deal with very briefly is concerning the 50 tickets. You considered that the 50 tickets was reasonable bearing in mind the size of the Sunland Group. Just to conclude that, if it was a very small organisation that you knew of - such as the rotary club with say 20 members and they bought 200 tickets, is that the sort of unreasonableness that you're talking about?-- Yes, I would think so. Rotarians didn't attend.

50

No. But I'm - what I'm-----?-- But, yes, I know what you're inferring.

What I'm saying-----?-- It's something I would review but also many of these tickets were actually - moneys were received by

my committee and referred them in and it was only when my wife and I came to distribute the tickets back that we actually saw the amounts but, yes, I would have to presume that that many tickets from a rotary club would be excessive.

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Yes. I have nothing further, thank you.

CHAIRMAN: Mr Mulholland.

MR MULHOLLAND: Nothing further, thank you, Mr Chairman. May Mr Shepherd be excused.

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CHAIRMAN: Yes. Mr Shepherd, thank you for your evidence.

WITNESS EXCUSED

MR MULHOLLAND: Before calling the next witness, Mr Chairman, I would propose to tender two files and can I in tendering these files indicate that Mr Hickey, it will be recalled, gave evidence before this Commission on the 18th and 19th of October. Subsequent to that date solicitors acting for Mr Hickey, Gilshenan & Luton, Lawyers, by a letter of the 27th of October 2005 provided certain information, certain documents to the Commission and subsequently the Commission officers inspected files held by Gilshenan & Luton on behalf of Mr Hickey and took possession of two files. They are the files within Hickey Lawyers of client 245821, Sue Robbins, Councillor and David Power, Councillor, Gold Coast City Council Election Campaign Fund; and client 248311, Mr L Barden, Commonsense Campaign Fund. I would tender - I tender both of those files.

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CHAIRMAN: Yes, the first file for the 245821 will be Exhibit 287.

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ADMITTED AND MARKED "EXHIBIT 287"

CHAIRMAN: The second file for client 248311 will be Exhibit 288.

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ADMITTED AND MARKED "EXHIBIT 288"

MR NYST: Can I see Exhibit 287 when it's been marked, sir?

MR MULHOLLAND: It is proposed to call several witnesses in relation to that matter, the first of whom is Sandra Wild.

CHAIRMAN: That's W-I-L-D?

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MR MULHOLLAND: W-I-L-D.

MR DEBATTISTA: Mr Chairman, just whilst these witnesses are being called, can I firstly seek your leave to withdraw-----

CHAIRMAN: Oh-----

10

MR DEBATTISTA: -----but-----

CHAIRMAN: I should indicate that anyone can withdraw at any time without seeking leave. I understand at an Inquiry like this people have interests at certain times and not at other times, you may come and go as you like.

MR DEBATTISTA: Thank you, Chairman. The only other point I wished to make just as I was leaving, I understand in conversations with Counsel Assisting that my client won't be called tomorrow in any event before 2.30. I just wanted to thank Counsel Assisting for that and to confirm that that was the arrangement. Thank you, Mr Chairman.

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SANDRA WILD, SWORN AND EXAMINED:

MR MULHOLLAND: Is your full name Sandra Wild?-- Yes.

30

And do you attend here today under an attendance notice, have you had an attendance notice recently served on you?-- Yes.

And that's just not available at the moment, Mr Chairman, we can tender it shortly. Were you interviewed by Commission investigators on the 27th of October 2005?-- Yes.

Have you subsequently seen a transcript of that record of interview?-- Yes, I have.

40

Would you have a look at this document, please. Is that the transcript?-- Yes.

Is it accurate, is there any obvious error that you can point out to us?-- No, I believe that those were mentioned, a couple of things in there.

You wanted to address a couple of things in there you mean?-- I think they were mentioned at-----

50

Well, all I'm asking you at the moment is is that a true and correct-----?-- Yes, it is.

-----record as far as you know of the interview that you had?-- Yes, it is.

All right. I tender that transcript.

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CHAIRMAN: That will be Exhibit 289.

ADMITTED AND MARKED "EXHIBIT 289"

MR MULHOLLAND: Now, Ms Wild, you were the personal assistant to Mr Anthony Hickey?-- Yes.

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And how long have you been his personal assistant?-- Eleven years.

You are aware of the matters that the Commission is interested in-----?-- Yeah.

-----and in particular are you aware of the Commission's interest in the production to the Commission of a document headed "trust statement"?-- Yes.

20

You know that such a document was produced to the Commission in April of 2005?-- Yes.

And did that statement relate to the as it was titled "Lionel Barden Commonsense Campaign Fund"?-- Yes.

Now, you were questioned on the date I have mentioned in relation to how that document was prepared?-- Yes.

30

And essentially what happened is that that document came to be, if I can put it this way, a composite document which represented entries in relation to two other statements?-- Yes.

That is a statement in relation to the Power and Robbins account, Power and Robbins being the client and the other being the L Barden account?-- Yes.

40

Is that correct?-- Yes.

Now, in your interview it is correct, is it, that you essentially said that you requested Ms Lowe, an employee of the firm-----?-- Yes.

-----to print two trust account statements for the Sue Robbins David Power and L Barden accounts and that she generated hard copies automatically from the accounts package, that's essentially what was said by you?-- It was.

50

Or to that effect?-- Yeah.

And you then had Ms Kym, K-Y-M is it?-- Mmm-hmm.

Kym Stokes S-T-O-K-E-S from the IT section scan the Barden document to save typing everything again-----?-- Mmm-hmm.

-----and that you typed in entries from the Power Robbins document in order to consolidate the trust statement for the Commission. Now, is that an accurate summary of what you believed, at least at the time that you were interviewed by the Commission, to have been the case?-- Yes, I believe that to be the case.

Now, I will take you to the documents concerned shortly. Can I ask you this, have you altered the view that you expressed in that interview in some way?-- With - regarding-----

10

Has your recollection changed in other words?-- Well, in regard to Michelle Lowe it has changed because when the document was produced it had the date of the 8th of June.

Yes?-- And that's incorrect because I typed it on, so - because that - I took that from a scanned document.

Right?-- That was a document on - they were two documents on my file.

20

Two documents - let's just take this carefully. There were two documents?-- Mmm-hmm.

The documents relating to Sue Robbins David Power account-----?-- Yeah.

-----and the other being the L Barden account?-- Yeah, yes.

30

Yes?-- So initially when I had my interview with CMC I had thought that I would have asked Michelle to give me an up-to-date statement on that, you know, so that I knew what - how to compile my report, but because they were scanned and I saw that my document had the 8th of June on it that's not right because that - that should have been - that should have been changed to - I should have - that was an error on my part, that should have been changed, I should have seen that because that's a scanned document I came across. So obviously it wouldn't have updated and put the correct date on there.

40

Well, I'll get you to explain what you mean by that in a moment by reference to the documents, but are you saying that you now do not believe that you requested Ms Leahy to print out the two trust-----?-- No, not then, no.

Two statements, is that correct? You believe that you did not ask her to do that?-- Not for - no, I would've taken them off the file.

50

You took them off the file?-- Yes.

All right, would you have a look at the files which have been tendered? Exhibits 287 and 288. Could you look at the files? I'm going to refer, Mr Chairman, to Exhibits 97 and 99. Let's go to the file, do you see in the file the two documents or two statements which you utilised at the time that you prepared this composite document? I'll get you to have a look

at these two statements, but see if you can find them in there-----?-- I have.

1

The state - have you got them there?-- Mmm.

All right, what one are you looking at?-- The first one is dated 8th of - you just want the reference number?

The name of the account?-- The name of the account is re Commonsense Campaign Fund.

10

Right, so this is the Lionel Barden being the client?-- Mmm.

And has it got Mr Barden's name on it?-- Mr L Barden.

Mr L Barden TBA?-- Mmm. Yeah.

What's TBA mean?-- To be advised.

All right, so did you go to these hard copies before you prepared this composite document?-- Yes.

20

Now you operate from a computer which you explain in your interview-----?-- Mmm.

Would you just answer, your answers are being recorded?-- Sorry.

So you had those hard copies, just take us through slowly what you then did?-- Okay. I would've taken them probably both off and gone down to Kym in IT and asked her to scan the documents for me so that I would have everything set up to save me having to retype everything, so I would've got her to set - to scan it.

30

You would have got Kym to scan it?-- Yes.

Now when you say you would've got Kym to scan it, are you referring only to the L Barden?-- Well, I'm not too sure what one-----

40

Which one?-- -----she scanned. I'm not too sure what she did there.

Did you not think at the time that you provided or that you were interviewed by the Commission that in fact the document which you had scanned was that account - was that statement, that is the L Barden statement?-- I wasn't really sure, it was just a guess really.

50

But that's what you said in your interview, didn't you?-- Mmm.

You believed at that stage-----?-- Mmm.

-----that it was the Barden statement that-----?-- Yes.

-----was scanned?-- Yes.

Are you not so sure now?-- I'm not sure which one was done but it more than likely was that one.

1

Right, so you believe then that that you had her scan that document - I suppose I should ask you this before we go any further and you have dealt with it somewhat in your interview. Why were you doing this?-- Because Tony asked me to do a report and show everything that we received in and out of this file.

10

Right, so are you saying that Mr Hickey asked you to produce this document?-- Yes.

What, that he asked you to produce a composite document?-- He just asked me to do a document up with everything that went in and out of our trust account in regard to any donations we had received and any we'd given out, that we had to give a document to the CMC of everything that went in and out of our trust account.

20

So he didn't identify any client?-- Well, this was the only file that I was working on, the other file was dead.

But did Mr Hickey identify any client, which file that you should go to?-- Well, it would've been this one because it's the only one we had. The other one was dead, it was archived-----

Did Mr Hickey say anything about the file which you should go to?-- No, he would've just said, "Do it on this file," 'cause that's the only file that was current.

30

When you say "do on this file" did he actually have the file?-- No.

Or did he tell you to go to the file?-- The file would've been in the compactus and I would've went and got it.

Where is the compactus in relation to your office?-- It's just down the corridor a little bit.

40

Right, so he asked you to prepare a document with all entries in or out in relation to donations to the campaign fund?-- Yes, that's correct.

And did you know what he meant by that?-- Yes.

So he didn't mention Power and Robbins or Barden, you just went to the file, is that what you're saying?-- Well, the Power and Robbins file was dead, so there was nothing to do - it was only - I was working on this file.

50

Yes. Did you see - did you know the - what request had been made of Mr Hickey so far as the documents that he should produce? Did you know anything about that?-- No.

So you didn't look at anything, he just said to you verbally to-----?-- I - I knew he had a letter and he just said to me

that we had to give a report to the CMC of everything in and out of our trust account.

1

Right. Well, you say that the file was dead. You knew that there was another file; that is, the file in relation to the client, Power and Robbins. Was that with the - with the file relating to the client, Barden?-- No, because our file was there and everything was put on this file so we no longer - that wasn't relevant, the file.

10

Where was that file which you had referred to as being 'dead'-----?-- It was our client.

It was our client-----?-- It was put in as a dead file because the name of the file was changed.

Was it in the - was it in the office where the files that you did get was?-- No, we have a storage area somewhere, some storage that put all our dead files. I don't know where that is, I think, it's on the roof somewhere.

20

Right. Would you have been able to access the records relating to the statement of the client, Power and Robbins, from your computer?-- Yes.

Would you have been able to access also, the records in relation to Barden from your computer?-- Yes.

Well, wouldn't the quickest way to have satisfied the requests that was made and the most accurate have been for you to simply obtain the most recent statements of account in relation to the client, Power and Robbins, and also, the most recent statement in relation to the client, Barden and simply provide those to Mr Hickey?-- Well, there is - one of the statements related to the old file. The - to me - I was working on this Barden file so I did one - I just did the one statement that Tony asked me to do. A statement of report on this file and that's what I did.

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You - he asked you to do a report-----?-- Uh-hmm.

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-----on the file-----?-- A statement. Do a statement of everything that was done in and out of our trust account.

So he asked you to prepare a statement of account-----?-- Uh-hmm. A report statement.

But there - this is - you were going to prepare a document, a statement or a trust statement, so-called, that didn't represent what you knew to be the case within the records. There are two clients; one client or the clients, Power and Robbins, had been clients up until the - in relation to this account. Up until the 4th of March and then Mr Barden was the client so why would you prepare a trust statement suggesting that entries in relation to the Power and Robbins account had, in fact, occurred in relation to the Barden client?-- Because that is a dead file and this was the file that took over from it. If we - if anybody changes a file, changes the name or it

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gets closed, that's a dead file and a new file takes over with the new name and a new-----

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Ms Wilde; have you ever - now, I want you to address the specific question that I'm asking you. In a situation where you had had one client in relation to an account up to a particular date and then you had had a new client in relation to an account and actually, transferred the remaining funds in the ledger to the new client, have you ever prepared a composite document as you did in this case, representing both of those clients and all the entries relating to those two clients. Had you ever done that previously?-- No.

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Well, why did you do it on this occasion?-- Because Tony asked me to do a report-----

When - when-----?-- -----from the file.

When he asked you to do a report, it was more than - and I appreciate that he's your boss but it was more than just to do a report. He was asking you to produce a statement which was picking up all the entries in relation to the statements relating to the two clients. Did you not say to him, "Well-----"

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MR MARTIN: Well, I object to that-----

CHAIRMAN: Can I clarify who you are acting for?

MR MARTIN: I'm acting for Mr Hickey, yes, and I object to Mr Mulholland putting words into the witness's mouth which he hadn't used previously. That's my objection.

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CHAIRMAN: I didn't pick up what was wrong but I might have missed something. Can you, perhaps, point it out, Mr Martin?

MR MARTIN: Well, I understood the last question to be and that you were asked to prepare a statement representing the files of both the - both clients. That's as I understood the question to commence. I didn't understand, at any stage, Mrs Wild to say that that was the conversation that she had with - with Mr Hickey at all.

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CHAIRMAN: It seems - that seems to correctly state her answer at the bottom of page five and the top of page six of her record of interview, Exhibit 289.

MR MARTIN: Wherein she says-----

CHAIRMAN: She says that, "Tony mentioned that the Crime and Misconduct wanted a report on everything that went in and out of our trust account-----"

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MR MARTIN: Yes.

CHAIRMAN: "-----so he asked me to prepare a trust account statement showing everything from the very start of what we received in to the very end-----"

MR MARTIN: That's right.

CHAIRMAN: "-----and that's what I did." And-----

MR MARTIN: Oh, I've got no difficulty with that.

CHAIRMAN: -----she's - she's produced - Ms Wilde has produced a statement showing everything from the first one which was what, back in December through to the last one which was months and months later so isn't that in accordance with what Mr Mulholland has just put to the witness?

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MR MARTIN: I thought complicit in the question being asked was that there was reference to both names or both files or something like that. Mrs Wild hasn't referred to that.

CHAIRMAN: No, all right. I - you're saying now that's implicit in the statement, in the question?

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MR MARTIN: Well, he actually said it to the witness. That she had said that he asked her to do a statement in respect of both names was what I understood-----

CHAIRMAN: All right. Well, if it's-----

MR MARTIN: That - look-----

CHAIRMAN: -----implicit in the question, isn't that still incorrect as being implicit in the answer that Ms Wilde has given at the bottom of page five and the top of page six. It's implicit in that answer that the statement she was asked to produce will recover all the donations received in under both clients.

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MR MARTIN: Your Honour, I've got no difficulty. I thought that Mr Mulholland was relaying to the witness what she had said verbally, which wasn't what she had said at all. I've got no difficulty that we stick to what she said. That is, that a report or a statement was asked for in respect of all ins and all outs.

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MR MULHOLLAND: With respect, it was more than that. I've taken the witness through what she knew she was being asked to do. That is, to produce a composite document from a statement in relation to the client - or clients, Power and Robbins, up to the 4th of March. I took her all through that, and then in relation to the client, and she understood that, and I asked her if she had ever been asked to do that before, and she said, "No." I've gone from that to essentially ask her as to why she did it. I understood that she said that she did it because she was asked to do it. Now, I was just going from there, Mr Chairman, to try to get the witness to explain to us why she did what she did. Ms Wild, the - what I would suggest to you is that once that request was made by Mr Hickey and you knew what it entailed, as we have discussed, why not just say to Mr Hickey, "Well, why don't we just give them the last statement that we have in relation to Power and Robbins and

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the last statement that we have in relation to Barden, and that will contain all of the entries"? Why wouldn't you do that?-- Because the very first file that was opened with this file, the Sue Robbins one - so once I was asked to close that file and open this one, in our practice, once that file is closed, that name is not relevant anymore because this is the one that takes over from it. Everything is put on there and everything is done from this file.

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But is-----?-- We don't refer to that anymore because that's dead and buried.

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But it is only relevant - can you say that it's dead and buried - you've agreed with me that you've never done what you were asked to do on this occasion. What I'm suggesting to you is that while it might have been dead and buried, the Barden client was only the client in relation to transactions after the 4th of March, and by producing a composite document in which Barden is shown as the client in relation to transactions going back to the 23rd of December, as you would have understood, it was falsely representing that that client was the client in that period?-- Well, that's how we do things in our office.

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But you've told me you've never done it as you were asked to do it on this occasion?-- I've never had to do it before.

Well, when you say that that's how you do it in the office, you've never done it before, but you did it on this occasion. What I'm seeking from you is an explanation as to why you did it. Is it simply because Mr Hickey asked you to do it?-- Mr Hickey asked me to produce a document of everything that went in and out of our trust account-----

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Right?-- -----and the only file I had was the Lionel Barden file, and I knew - I knew about this other file, but it was dead, so everything was on this file, and that's what I did it from.

Yes.

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CHAIRMAN: Ms Wild, can I ask you, is the Lionel Barden file still alive?-- Yes. Absolutely.

Why?-- Why?

Mmm?-- Because there was this investigation and it was-----

This investigation didn't start until this year. Why was the Lionel Barden file still alive after - when was the last donation into it? It was about November, or something, last year, I think, wasn't it, or no? No, not even that. It was much earlier. Those ones didn't go through it?-- March 04.

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It would be about March 04. Why was the file still alive?-- Because we don't - with files like - any files, we keep it active for a while just in case anything - like-----

What do you mean by "a while"?-- Well, it just depends when I clean out my compactors. I usually do that once a year or, you know, I'll keep them in there if I think something is going to happen with the file or-----

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Well, this was 13 months after the last transaction on the account that-----

MR MULHOLLAND: It was May, actually, Mr Chairman. The last transaction on the-----

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CHAIRMAN: Was May, was it?

MR MULHOLLAND: Was May. Yes, May 2004.

CHAIRMAN: All right. Sorry. So it's 11 months after the last transaction and the file is still alive?-- That's not unusual. I have files in my compactors that are years old. It just depends, you know, what - if there's anything-----

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Sure. Has the witness got Exhibit 102?

MR MULHOLLAND: I think that I was asking for those to be-----

CHAIRMAN: Yes. It's the earlier letters.

MR MULHOLLAND: Could I just make one point, Mr Chairman, before we pursue that with the witness? If you look at the file, Ms Wild, there are the two latest trust statements concerning these two clients. They're actually together. Just have a look at the file?-- The one that I typed? Is that the one you're talking about?

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The Barden file. The first statement shown on the file there is the 8th of June 2000 and - see if you can find this - the 8th of June 2004 trust statement Mr L Barden TBA?-- Yes.

Have you got that one?-- Yes.

Now, the first entry shown there is the 4th of March and the last entry is the 26th of May. Is that right?-- Yes.

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And there's a nil balance. It ends up with a nil balance?-- Yes.

Go to the very next document on the file. What do you see there?-- It says, "Sue Robbins councillor trust account statement."

Right. So the other - the other - the next - very next document on the file is the trust statement of the 8th of June 2004. This is the most recent trust statement in relation to Sue Robbins, councillor, and David Power dealing with the period - or transactions from the 23rd of December 2003 with the last entry being for the 4th of March 2004?-- Yes.

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What I'm saying is, when you went to the file you would see that those two trust statements represent all of the entries

in relation to this fund. So why wouldn't you just send off to the Commission a copy of those trust statements?-- The two separate ones?

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Yes?-- Because that's in the old file name. That trust is in the old file name and the old file number and it's nothing to do with that. It's on that file.

But it represents the entries in relation to that - those clients, Power and Robbins, and the easiest way to satisfy a request for all of the record of transactions in relation to this account would be to simply copy that and send it off to the Commission and it would be accurate, wouldn't it?-- Yes, it would be.

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And it would be-----?-- It would be but it's not just this, if we were doing this for any client we would never do that because it's too confusing for them and they'd wonder why we changed - if anybody changed the name of a file.

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Hold on?-- Pardon?

You're not talking about any client, you're talking about sending information to the Crime and Misconduct Commission?-- But I thought what I did was correct because Tony only asked me to put in whatever come in and whatever come out of our trust account and that's what I did and all the names are all on there.

That's why I said is the real answer to what I'm seeking from you that you just did what you were asked to do by Mr Hickey?-- Yes.

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Now, I'm sorry, Mr Chairman, I may have interrupted a line of questioning.

CHAIRMAN: That's all right. No, no.

MR MULHOLLAND: Can I ask you just to take us now physically to how you constructed this document? Can I, before you do so tell us which was scanned, just draw your attention to a couple of things. You have - do you have a copy of the composite statement there? You might like to flag these, I understand it might be a bit difficult to follow?-- Yes. No, I've got it here-----

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CHAIRMAN: When they're identified perhaps they could be marked as - with an "A" and a "B" with our exhibit stickers so that we know the ones that have been identified.

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MR MULHOLLAND: Very well. If you wouldn't mind, Mr Orderly. I've got some stickers. We'll just - when the orderly gives you these stickers would you mind just putting "A" to indicate the composite document and "B" and "C" to indicate respectively the Power and Robbins document and "C" being the-----?-- Sorry, do these stick on or something-----

Yes-----

CHAIRMAN: Perhaps you could assist, Mr Orderly. Yes, I think the back's got to be peeled off and then they stick on.

MR MULHOLLAND: All right. So "A" will be the composite document, "B" will be Power and Robbins statement and "C" will be the L Barden statement. Just tell me when you've done that and we'll start?-- Sorry, did you say "C" was to be the Barden one?

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Which is easier - which one have you got there?-- Barden's the first one so I'll make it-----

All right. Well, put that down as "B" and we'll put the - we'll put Power and Robbins as "C". That's the order in which they appear in the file, is that correct?-- It is.

All right. Well, that's probably the simplest way to do it. All right. Now, just - just let me - just let me point out a couple of things to you in relation to the Lionel Barden statement. I'd like you just to compare this with the composite document that was produced. Now, do you see first of all that in relation to "B" - if you look at the composite document first of all, that's "A", do you see at the - in relation to the entry of the 13th of February 2004 the Fish Development shown in full?-- Yes.

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Do you see that?-- Yes.

CHAIRMAN: Shown in?

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MR MULHOLLAND: In full. Now, if you go to the - if you go to the entry on "C" for the 13th of February you'll see that it is shown as the Fish D-E-V-E-L-O - in other words, there have been some letters added, do you see that?-- Yes.

Have you noticed that previously?-- No.

Okay. Then if you go up - while you're on the same document, this is in "C" - to the entry for the 24th of December 2003, do you see for division 5 candidate?-- Yes.

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And do you notice that the "5" appears on the next line?-- Yes.

Go to the composite document "A" and you'll see the "5" appears on the first line?-- Yes.

All right. If you go to the date while you are on the composite document, "A", you'll see the date for the entry of 15 January shows the year as '03?-- Mmm.

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Go to "C" and you'll see it's 15 January '04?-- Yes, I know - I knew that.

All right. So another - another change in that. And of course the composite document - the last entry in relation to - in relation to "C" - sorry, just before we go to that, if

you go to the entry for 3 March '04, have you got that?--
That's in "C"?

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This is in C?-- Mmm-hm.

Yes, it's campaign funds received from Roche Group Pty - and, go to the composite document A, you'll see it's "Pty Ltd"?-- Yes.

Finally if you go to the entry for 4 March '04, the last entry on C, you'll see that that entry, "trust journal transfer, to MN 248311" - is that the client name?-- That's the client number.

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Sorry, client number?-- Yep.

"L Bardon, commonsense campaign fund". Now, that entry, a debit of \$20,500, does not appear on A, does it?-- No.

All right. Now, I just wanted to draw that to your attention and those changes in - before you indicate to us the way in which this composite document was produced?-- Well, that - the reason for - well, first of all, the one you first said about this - that's from our CLO package, like our trust account CLO package, and sometimes it does that, it cuts that off. But that's neither here nor there because I would - because it has been scanned over, when you're saying that some things are missing, like "Pty Ltd", that's - because that's a scanned document, it's going to miss things like that.

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So-----?-- And I've fixed things - as you can see from the things that you've been mentioning to me, I've fixed that up because I typed - I've typed some of that in to make it the right document.

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Well, let's just take it through step by step. You had the document or a document scanned?-- Yes.

Which of the two trust statements - was it B or C that you had scanned?-- I'm not quite sure.

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Right. So you don't know-----?-- I'm not quite sure.

-----but it was only one of them?-- I'm pretty sure. I'm not sure, but-----

Right. And you had the person that we mentioned, Kym Stokes, she did that scan for you?-- She did.

One of the two documents?-- Yes.

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She brought you the - what happened next; you just tell us what happened?-- So she would have scanned the document for me to get me all set up and then she would have saved it as a word document. So that's-----

Right?-- Into our word-processing-----

She scanned it. So-----?-- Yes.

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So, what, she scanned the-----?-- She would scan-----

Scanned the hard copy-----?-- Yes.

-----that you had from the file?-- Yes.

Right. And she then - what, brought it onto your computer?--
No. Well, she made it into a Word document and gave it an ID.

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Right. Sorry. Made it into a Word document?-- Mmm.

All right. Yes. So did she do that on her computer?-- Yes,
she did.

And what did you do?-- So then she would have - she would have
given me the hard copy back and then I would have called - she
would have just given me the number that she saved it under
and then I would have entered in what I had to enter in to
make the document.

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Right. So that's the document number we're speaking about?--
It is.

She gave you that and you were able to then bring it up on
your computer?-- Yes.

So when you brought it up on your computer you had either B or
C-----?-- Yes.

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-----on your document?-- Yes.

On your computer. Then what happened? What did you do?-- So
then I made sure I put everything in that we had received, in
and out of our trust account.

Right?-- All the donations.

So whichever document it was you added the entries in relation
to the other document?-- Yes.

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Is that right?-- Yes.

Did you use the hard copy to refer to in order to do that?-- I
did.

You did? It just seems to be a complicated way to produce a
document when you could have quickly provided two trust
statements or copies of them which were already on the file.
At any rate-----

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MR MARTIN: Well, could she answer that, please?

MR MULHOLLAND: Well, go ahead?-- I'm just going back on what
I said to you before, because that's what happens when we
close a file. You never ever refer to the old file; you only
ever refer to the new file.

Yes. So you then started manually typing up from this other trust statement, whichever one it was-----?-- Yes.

-----B or C. Why did you delete from the document that you were using which had been scanned and - into the Word document, that new Word document that you were using - why did you remove from it, as you obviously did, the entry in relation to the transfer?-- Because-----

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It was either the last entry - if it was C it was the last entry; if it was B it was the first entry. Why did you remove that from the document, the new document?-- Because it related to the old file and it didn't make any difference to the balance; what I put in exactly was what went in and out of our trust account.

So didn't understand Mr Hickey to want from you every transaction which had occurred in relation to the account?-- Well, my understanding was all the donations that we got in from everybody, they were the dinner night - and that's what I did.

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Well, there is a transfer of the amount which existed - this is in the ledger - there is a transfer of the amount that existed on the 3rd - on the 4th of May there was a transfer of the amount from the Power and Robbins account to the L Barden account?-- Mmm-hmm.

Well, that's a transaction, isn't it?-- It's a transaction, but it relates to no file and it's not a donation.

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So you manually, you believed - this is something you did - you manually removed that entry?-- I would have, yes.

And then when you were typing fro the other document, whether it be B or C, you then omitted the transfer either in or out in relation to that amount?-- Yes.

Depending upon which document it was?-- Because it related to the old file, yes.

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Now, the document which you created - there is a report, Mr Chairman, that I intend to tender, it's a memorandum from detective Sergeant R A Geach to detective Inspector K Bemis and it explains - it's headed "forensic computing examination regarding creating of a document at Hickey Lawyers relating to the Lionel Barden Trust Fund." A copy has been provided to Gilshenan and Luton. I tender that.

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CHAIRMAN: Is there a copy for me?

MR MULHOLLAND: I hope so, Mr Chairman.

CHAIRMAN: Yes, thank you. That memorandum from detective Sergeant Geach, that's spelt G-E-A-C-H, to detective Inspector Bemis dated 10 November 2005 will be Exhibit 290.

ADMITTED AND MARKED "EXHIBIT 290"

MR MULHOLLAND: Now, you may or may not be able to agree with this, but can I suggest to you that what seems to have happened is that the document number of the composite document which was produced is 470007, is that correct?-- Yes. It's not on here because-----

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What would you like to see?-- The third page is not here.

Oh, the third page?-- Yeah, to show you the ID of the document. But-----

Well, I don't know that we have the third page either, but-----?-- It's 470007-1.

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Yes?-- Yeah, that's the-----

That's the one. Now, just tell us - what the Commission received was two pages, You say that there was a third page, but the only thing that the third page had on it essentially was the document number?-- Yeah. I couldn't - when I first got this and I was trying to find this document - because every time we do a Word document we always save it into - we save it and give it an ID and this didn't have one and I - I just couldn't understand how it was done. So anyway, I asked one of the girls in accounts and I said, "Look, there's no ID on this, you know, and I can't seem to file it on the system" because we would - you know, when we save it we would put, you know, the re, we'd put that re in so it would be easy to find. Anyway, she found it for me and when we went into it what had happened I had printed these two out, but the third - the ID had gone to the third page and I hadn't realised that, the ID of the document.

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Yes?-- Yeah, so-----

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So you retrieved that from the computer, did you?-- Yes.

All right?-- Yes, well it's actually-----

But it would not ordinarily be the case that you would send a document with the document number on it to someone?-- Yes, you would.

You would-----?-- Yeah.

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-----normally send it with the document number?-- Absolutely, yes.

Well, that's all that the third page had on it-----?-- It is.

-----the document number. So the document number of the composite document is 470007. That was created from a

document 469949, is that right, can you confirm that?-- What's that, I'm sorry? 1

469949. That is to say the composite document was created from a document with that number?-- That document was - was scanned - was a scanned in document to make the 470007 document.

Right?-- So I don't know what the other number is you're saying, sorry. What number are you saying? 10

469949?-- What is that?

Would you have a look at the - would you have a look at the document just tendered please, 290. Have a look at this document. Go to appendix B and can you see the document which is being worked on shown there in left-hand column, 469949?-- Sorry, yes, yes.

So can you confirm for us that the composite document was prepared from that document?-- I don't know. I don't recognise that number. 20

Isn't what happened that that document - that document 469949 would appear to have been deleted - that is, after you'd worked on it, it was then deleted?-- Well, I think when-----

MR MARTIN: I'm sorry, can I just interrupt. I mentioned to Mrs Hamilton before we started the difficulty about this computer business of - whatever it's called, the program - "I Manage" and we were given the statement that's been tendered from the computer man at about lunch time today. There has been no review of the contents of that. I notice that----- 30

MR MULHOLLAND: I won't persist, Mr Chairman, I'll do it another way-----

MR MARTIN: Could I just-----

MR MULHOLLAND: -----ask the witness to----- 40

MR MARTIN: Sorry, could I just say from interviewing Mrs Wild she isn't across the programs at all. We had to seek advice ourselves and I notice that the CMC's expert himself at paragraph 18 was talking about getting further information from the experts, a reply has not yet been received. Can I just say that the documents aren't necessarily explicable on their face, that's all.

CHAIRMAN: I can confirm that to me they're certainly not explicable at this stage, Mr Martin. 50

MR MARTIN: No, they certainly weren't to me.

MR MULHOLLAND: What appears to have happened is that this document underwent editing and printing between 2.22 and 2.59 on the 12th of April 2004. Would you agree so far as your recollection can go that it did continue for a while?-- That

would have been Kym. That would have been Kym - that would have been Kym Stokes.

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Yes?-- Because she created the document. I didn't work on it until the 13th of April.

Yes. All right. Do you know anything about the printing of the document on the 13th of April?-- The printing of my document?

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The printing of the composite document?-- Yes, yes.

How many copies were made?-- I don't know, I'm not sure.

Just have a look at the one and two on the file, is there any document number on those statements?-- One and two on what - sorry, what-----

One and two in the file - sorry, "B"-----?-- "B" and "C".

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-----"B" and "C" in the file?-- Sorry, what was the question?

Would you have a look at those two documents and tell us if there is any document number on those statements?-- No because they're - they don't have document numbers. That's from our CLO accounting package. That's not a Word document, that's from our trust account. They don't have I.D.

All right. Now, you will see in relation to "B" and "C" that "B" has at the top of it our reference, 248311/00001. Now, is that number - that first number - 248311, is that the client number?-- Yes.

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All right. And in relation to "C" is the reference also the client number 245821?-- Yes, that's the old file, yes.

That's the client number?-- Yes.

On the composite document is there any reference there?-- No. I noticed that and I don't know whether that happened in the scanning or whether - I don't know, I can't give you an explanation for that why it's not there because it should have been.

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It should have been?-- Yes.

So what, that's a - what should have been there?-- Our reference.

Your reference?-- No, no. The reference - that reference number on the file should have been on there because that's the file I was working on so I don't know why it wasn't there.

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So you would have meant for it to contain the client reference or the client number of Barden so that is what you were intending this document to represent?-- Yes.

The date at the top of the composite document "A", is there anything you can assist us with there?-- Yeah, well, that's - that was an error on my part because they were the two documents that were scanned together and they have the 8th of June 2004 on them and I should have changed that to the date I was doing it which was the 13th of - 13th of April so that was-----

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CHAIRMAN: Ms Wild, you've lost me a bit. You say they were the two documents that were scanned together?-- Yeah.

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I thought there was only one document scanned?-- Well, whatever - well, I mean whatever one was scanned, I don't know, but I'm just saying there was two documents and they're both dated the 8th of June 2004. So whatever one was scanned it didn't matter because they both have the same date.

Yes. See, I haven't seen the original ones that were scanned. Both B and C, do they both have the date on them 8 June 2004?-- They do. They do.

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I see. Okay.

MR MULHOLLAND: All right?-- Because, yeah, if that was a Word document it would have updated it for me, but because that was a scanned document it didn't do it and I never think to look at things like that because our documents always update each date as we come in. But because it was a scanned document it was my error in not changing that and that's what happened there.

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Did you have anything to do with the preparation of a return following the election for - a third party return by Mr Barden?-- Yes.

Did you type up that return?-- Yes, I did.

So back in about June of 2004 you would have typed up that return?-- Yes.

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And you included on it all of the donations?-- Yes.

Who asked you to do that?-- Tony.

So what, he - do you remember what he said to you?-- I just remember he said we had to do a return for Lionel Barden and we had to put in all the donations we had received.

Perhaps I should ask the witness to see the return, Mr Chairman. Exhibit 3. Is it on the file there?-- Yeah, it would be actually, yeah.

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Well, go to the file it might save some time?-- Yeah, I've got it here. It's dated the 10th of June.

10th of June?-- Yes, 2004.

So just casting your mind back to the circumstances in which you typed that up what did Mr Hickey say to you?-- Just to put in everything that we received and all the donations that we'd received on the file.

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With everything?-- On - yes.

Under the name of Lionel Barden?-- Well, what do you mean under the name of Lionel Barden?

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Well, the return is in the name of Lionel Barden?-- Yeah.

Even though Lionel Barden in relation to the transactions prior to the 4th of March was not the person in whose name the account was held, was it?-- I don't - I don't know anything about that, I didn't even think about anything like that. I just had to put in the donation.

You may not have thought about it, you may have just simply acted upon what Mr Hickey asked you to act. But what you are - what is being suggested in that return is that those were amounts of money which were received by Lionel Barden when in fact you didn't receive them?-- I don't know, I was just asked to put in whatever we had received into our-----

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By Mr Hickey?-- Yes.

Just come back to A again would you please, Ms Wild. The heading of the document or the statement is "Lionel Barden Commonsense Campaign Fund"?-- Yes.

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If you go to B it is headed "Commonsense Campaign Fund". So why did you type in "Lionel Barden Commonsense Campaign Fund"?-- Because I think that was the name of the - because it's got - oh, I don't know why I didn't - why I didn't put L Barden because it's just got the "re Commonsense Campaign Fund".

MR MARTIN: Sorry, I beg your pardon. What are you referring to there?

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MR MULHOLLAND: "Lionel Barden" - so you can't really explain how that came about?-- Well, the file's in the name of Lionel Barden and the re is "Commonsense Campaign Fund", so I probably just-----

Now, when you - sorry, I cut you off, were you going to add anything?-- No, I've probably just called it that because that's what it was about.

50

When you finally produced this composite document-----?-- Mmm-hmm.

-----what did you do with it?-- I would have probably put it in my tray and told Tony - well, depending if I had other stuff to do at the time I would have put it in my tray and I would have probably rang Tony up and said, "I've got some things to sign, can I come in" and-----

So did you take it to Mr Hickey and ask him whether that's what he had in mind?-- Well, I did a letter with it as well so I would have taken the letter and that in together.

Right. Yes. This is the letter that was dated the 13th of April 2005?-- Yes.

Now, that document has a reference at the top, 248311, which is the-----?-- The file number.

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-----client number for Lionel Barden?-- Yes.

All right. And, what it says is, "I refer to your letter of the 11th of April and, as requested, we now enclose a statement with respect to the Lionel Barden commonsense campaign fund". Was this dictated to you by Mr Hickey?-- Yeah.

20

Yes, I have nothing further, thank you, Mr Chairman.

CHAIRMAN: Yes. Could I just see that file, the Lionel Barden file. What's Mr Hickey's practice? Does he keep file notes of telephone calls and place them on the file?-- Yes, he would do.

So, would we expect to see on this file, file notes of conversations that he's had about this particular file?-- Maybe not that file because he didn't really deal with the files as much as I did because I was the one that got the money and I had to get the authorisation to let it out.

30

Right. It's-----?-- It wasn't like a client.

Do you have exhibit 102 there with you?-- No.

You don't. Could the witness have exhibit 102. Goodness me, this file's in a number of pieces. Would I find the letter-----?-- If you look in the-----

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-----that you did at 13th of April?-- Yeah, there's a lot of lists up on the top, I'll just take all that off-----

Right?-- -----and you'll get down to it, yeah.

And, we'll find it in behind that somewhere?-- It's in a chronological, so you will get it, in date order.

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Right. You've got exhibit 102 there?-- Yes.

Now, the top part of that is the letter of the 13th of April 2005?-- Yes.

We can see on that underneath Mr Hickey's signature is his direct email, his direct phone line and his direct fax?-- Yeah.

1

Where is that fax machine?-- Just in front of me.

All right. And, I presume then that you collect the faxes and take them into Mr Hickey?-- Yes.

And, did you then collect a fax that was received, if you see at the last document on that exhibit, which is - should be a letter of the 11th of April 2005. What's there of course is the CMC copy of it. But, you can see it was faxed by facsimile to 55741130?-- Yes.

10

All right. So, you would have collected that fax and taken it into Mr Hickey in the normal course?-- Oh, sorry. I thought you were talking about my faxes when I send them. No, if we get faxes in, we've got a fax machine on either side of the office so anybody can pick up a fax and anybody can just deliver it to me or whoever in the office. There's just a group of them come through and then we just distribute them accordingly, you know.

20

Sure. But, this is the fax machine that's the one that receives faxes for Mr Hickey?-- We don't - there's no specific one for Mr Hickey. They're all for everybody.

I see. So, when it says-----?-- He doesn't have a - sorry.

30

-----"Direct fax", that's-----?-- That - that's not true. We just say that-----

It looks good on the letter but it's not true?-- Exactly. That's not true.

All right?-- Well, when I say it's not true, it's-----

Well, it does get to him directly?-- It - it gets to him - the direct line's correct and that's the main thing so they can ring him.

40

Okay. All right. But, the faxes are then brought to you-----?-- Yes.

-----and you take them into Mr Hickey together with all his normal mail?-- Yes, I do. Or, if I wasn't there, and then Tony helping me, and I just put in my tray, Tony would just come by and have a look and maybe see it and take it so it just depends on the day.

50

Do you remember ever seeing that fax as it came in?-- Not really. I think I saw it on Tony's desk but I don't think I picked it up from the file.

But you saw it on his desk?-- Yes.

So you knew the CMC was making enquiries-----?-- Yes.

-----about this particular account?-- Yes.

And you knew then that everything you were doing was not going to the client but was going to answer a specific query coming from the Crime and Misconduct Commission?-- Yes.

Okay. Look, it might be faster if you do it for me, but you will see that that letter of 11th April from the Commission refers to our - the first paragraph says, "I refer to our telephone conversation today". Can you look at the file and tell me if there's a file note of that telephone conversation? And while you're looking through the next letter back from Mr Hickey of 12th April to the CMC, it says, "I refer to your letter received yesterday and to your telephone conversations yesterday and this morning", so there should be - if a file note was made there should be one for the 11th and one for the 12th?-- That was 2004, wasn't it?

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Yes?-- Yes.

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Sorry, 2005?-- Two thousand - okay, right, there's a file note here on the 11th of four, that's Tony's writing-----

Of the phone conversation?-- That's Tony's writing.

Okay, and he gives that to you then and you put it on the file?-- I do.

Okay, and is there one there then for the 12th?-- For the 12th, no, there's nothing in here for the 12th.

30

All right, could I just see the one for the 11th please? Mr Orderly. Right, that's terms - yes, all right, thank you. And the letters that you've - Mr Hickey presumably dictates, does he, his letters?-- He does.

And he's headed the letters re Lionel Barden Trust?-- Yes.

Okay, and the letter of the 11th - sorry, the 12th he headed it re Lionel Barden Trust?-- Tony's letter, sorry, are you talking about?

40

Yes?-- The one from the CMC is that what you're saying?

His letter to the CMC of the 12th?-- Oh, of the 12th.

The reply to the CMC's letter of the 11th?-- Yes, it's got Lionel Barden Trust.

50

All right, and that's the same day as he asked you then to produce this composite document?-- Yes.

For the Lionel Barden Trust, okay, and that's presumably why you might have marked it as the Lionel Barden Trust at the top?-- Yes.

Okay. Yes, thank you.

MR MULHOLLAND: Just - I'll tender now the attendance notice I referred to. Would you have a look at this document please? Is that the attendance notice served on you?-- Yes.

I tender that, Mr Chairman.

CHAIRMAN: Yes, that will be Exhibit 289.

MR WEBB: 291, no 291.

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CHAIRMAN: I missed out a couple, yes, okay.

ADMITTED AND MARKED "EXHIBIT 291"

CHAIRMAN: Mr Mulholland, I got a little bit lost in all that computer material. The document 469949, was it able to be identified what that document was?

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MR MULHOLLAND: It cannot be identified.

CHAIRMAN: Yes, thank you. Mr Martin.

MR MARTIN: Could I just say I don't know what that is but the statement seems to refer to that document at a time when Ms Stokes is dealing with the document, that number-----

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CHAIRMAN: Yes, that seems to be the one that she created after she'd scanned the document, that's the way I read it.

MR MARTIN: Well, at least that seems to be it but then when Mrs Wild gets to it, it is this document 007-----

CHAIRMAN: Yes.

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MR MARTIN: -----dot 1 I think and one can see that, I think, from appendix A to the statement, Mr Chairman, but further confusion seems to come in. Can you see up above all the small type, the heading of the document seems to be 470007.1 and that seems to be trust statement-----

CHAIRMAN: I'm not seeing that at all, where's that?

WITNESS: It's a wee bit hard to see, it's just along the very top of it, sort of - sort of like in the dark section of it.

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MR MARTIN: May I approach for one moment to show you where I'm looking at?

CHAIRMAN: Certainly, I'd be delighted. Yes, I can see it now, yes, it's the second dark line, yes, I can see it.

WITNESS: It's hard to read, yes.

1

MR MARTIN: But then in brackets it seems to be trust statement for the Gold Coast City Council Election Campaign Fund.

CHAIRMAN: Yes, yes.

MR MARTIN: Which doesn't seem to suggest that it's the Lionel Barden one but I don't know, but I'm just pointing out part of the confusion with the item-----

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CHAIRMAN: Well, it does, doesn't it? Isn't document B Gold Coast City Council - Election Campaign Fund, whereas C seems to be Commonsense Campaign Fund?

MR MARTIN: That's right and that could well be the document that was worked on-----

CHAIRMAN: Yes.

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MR MARTIN: -----but I didn't know whether Mrs Wild said that in her evidence, I'm just saying that I think she was uncertain but I'm just pointing out that-----

CHAIRMAN: Sure.

MR MARTIN: -----that's the document, at least that's the title that the "I manage" print-out seems to indicate was the document worked on.

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CHAIRMAN: Okay, thank you, Mr Martin.

MR MARTIN: That's not to say that there isn't another I manage print-out in respect of the other document. I fear that I've seen at some stage reference to another document as well, so I'm just letting you know these records aren't complete. Mrs Wild, could I ask you this, when Mr Hickey asked you to prepare a report showing the ins and outs of the trust account, at any stage of the conversation or at any time did he say to you anything to the effect, "Whatever you do, don't disclose Power and Robbins at any stage"?-- No.

40

Did he apart from giving you those instructions involve himself at all in the preparation of the document that you created?-- No, he didn't.

In relation to that file, the Lionel Barden Commonsense Fund file, was it billed at all? Was there any-----?-- No.

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No?-- It was strictly administration file for monies to come in and out of our trust account.

Did I understand your evidence to be that you largely handled the file rather than Mr Hickey?-- I did.

The Chairman was asking you about a letter to the CMC and I thought he was talking about a letter dated 12 April 2005, is

that so? Have you got - is that the date on the letter?-- Yes. That's just referring to the letter that we received yesterday from the CMC, is that the one you mean?

1

Could I have a look at that please?

Mrs Wild, you were also referred to the letter from the CMC dated 11 April 2005; is that correct?-- Yes.

And the reference on that document is re Lionel Barden Trust; is that so?-- Yes.

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You were talking about the composite document that you created and you were referring when giving your evidence to the fact that originally it seems that two pages only of the three pages were forwarded to the CMC and consequently the third page which had the document number did not go with it. Can you explain how that came about?-- Yes - well, I would have put everything I had into the document and then printed it out and when I would have gone to the printer I've just picked up the two pages, saw the closing balance and not realised that the ID has gone to the next page because it's obviously, you know, just dropped down the next level. If I had've seen that, I would have - if I had known that had happened, I would have made a few - you know, I would have lifted the document up a bit so I could get that ID on there so it makes it easier for anybody to find, even - it wouldn't matter if I was looking at it or somebody else.

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And were you questioned about the fact that that document was missing a document number when interviewed by the CMC police?-- Yes, I think they did, yes.

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In any event, has it been more recently that you've gone back to the system to see whether or not the document when printed out carried with it the document number?-- Yes, I asked accounts because I couldn't find it, and she went in and found it for me, and then when we looked at it, when we called it up on the screen, it showed you the first two pages and then the ID was on the third.

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In relation to the documents which have been referred to I think as B and C on the file - they're the two trust statements dated the 8th of June 2004 - you were telling Mr Mulholland - Mr Chairman, I've got a printout of the three pages of that composite document just showing the third page. Could I tender that for completeness?

CHAIRMAN: If you want to. I'm certainly not drawing any inference about that document-----

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MR MARTIN: Oh well, I don't care; that's fine.

CHAIRMAN: It's totally explicable what the witness says as to why it didn't appear there.

MR MARTIN: Thank you. You were asked about typing up the return; do you recall Mr Mulholland asking you about that?-- I do.

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And did you type it up all yourself or did you have assistance in that regard, do you know?-- I did have assistance, yes.

You did, okay. Do you know who that was?-- One of the girls in the office sent an email to say she was looking for some work and could she help with anything, so I was really busy that day or otherwise I wouldn't have got her to do it, so she would have helped put in some of those - some of the amounts.

10

In any event, either you typed it or it was typed under your direction; is that right?-- Yes, it was.

Now, we note from correspondence on the file that a document was sent out to Mr Barden on the 10th of June. Do you know how and why those documents B and C, that is the trust statements for the 8th of June 2004, came into existence?-- Well, I thought about that afterwards and to get that information from that I would have had to ask accounts to print me out the statements.

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And would the 8th of June 2004 then represent the dates when they were printed out?-- Yes.

And do you think that it was from that information that you typed up, or had typed up the return that you referred to?-- Yes, I do.

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And then, do you think that you put those statements on the - on the file so that there were hard copies there?-- Oh, definitely. I would have put them on the file, yes.

And then when Mr Hickey spoke to you in April 2005 about showing a report of ins and outs in the trust account do you think that they're the hard copies that you found on the - on the file from which you worked?-- Yes, they were because that's how I got the date wrong because it was a scanned document and it had come over with the same date because I couldn't understand the date.

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Okay. And just to understand that, if the document scan, whichever one is scanned, or even if both are scanned, the document that comes through to you and which you open on your computer is going to show 08 June 2004, is that correct?-- Yes.

Unlike a word document, if it's modified or whatever it's going to show automatically the date that it's worked on, is that so?-- Yes.

50

Okay. In the creation of this composite document you then simply forgot to change the date to the correct date, I think you said the 13th of April 2005 that you were working on it, hence the date of 8 June 2004 still remaining on the trust statement?-- That's correct.

Or on the composite document that you created? Mrs Wild, have you, for some sinister purpose deliberately deleted from the composite document reference to Power and Robbins?-- No.

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Is there - is there some sinister motive involved in your doing that?-- No.

Any - any sinister motive discussed between you and Mr Hickey to delete reference to Power and Robbins?-- No.

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Thank you, Mrs Wild.

CHAIRMAN: Yes, Mr Mulholland?

MR MULHOLLAND: Nothing further, thank you, Mr Chairman. May the witness be excused?

CHAIRMAN: Certainly, yes. Thank you, Mrs Wild, you're excused?-- Thank you.

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Thank you, for your evidence.

WITNESS EXCUSED

CHAIRMAN: What time tomorrow?

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MR MULHOLLAND: 2.15 tomorrow.

CHAIRMAN: And are there other witnesses?

MR MULHOLLAND: We've got two further witnesses in relation to this bracket and then Mr la Castra.

CHAIRMAN: I see. And we can't sit in the morning?

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MR MULHOLLAND: We can't sit in the morning.

CHAIRMAN: All right, 2.15 tomorrow.

THE HEARING ADJOURNED AT 4.33 P.M. TILL 2.15 P.M. THE FOLLOWING DAY

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WITNESS LIST

EDWARD LLOYD SHEPHERD, SWORN AND EXAMINED..... 2034

WITNESS EXCUSED..... 2094

SANDRA WILD, SWORN AND EXAMINED..... 2095

WITNESS EXCUSED..... 2122

EXHIBITS

ADMITTED AND MARKED "EXHIBIT 279"..... 2034

ADMITTED AND MARKED "EXHIBIT 280"..... 2035

ADMITTED AND MARKED "EXHIBIT 281"..... 2044

ADMITTED AND MARKED "EXHIBIT 282"..... 2049

ADMITTED AND MARKED "EXHIBIT 283"..... 2057

ADMITTED AND MARKED "EXHIBIT 284"..... 2065

ADMITTED AND MARKED "EXHIBIT 285"..... 2066

ADMITTED AND MARKED "EXHIBIT 286"..... 2071

ADMITTED AND MARKED "EXHIBIT 287"..... 2094

ADMITTED AND MARKED "EXHIBIT 288"..... 2094

ADMITTED AND MARKED "EXHIBIT 289"..... 2096

ADMITTED AND MARKED "EXHIBIT 290"..... 2110

ADMITTED AND MARKED "EXHIBIT 291"..... 2118