

Investigation into dealings between Australian Water Holdings Pty Ltd and Sydney Water Corporation and related matters

ICAC FINDINGS

The ICAC found that **Gilbert (Laurie) Brown** engaged in serious corrupt conduct by, in 2010, misusing his public office through his involvement in the preparation and submission of a minute (the Kelly Cabinet minute) to the Cabinet Standing Committee on the Budget (the Budget Committee of Cabinet) with the intention of improperly favouring Edward Obeid Sr by enabling Australian Water Holdings (AWH) Pty Ltd to proceed to direct negotiation with the NSW Government concerning its public private partnership (PPP) proposal for the purchase, supply and operation of water infrastructure in the North West Growth Centre.

Anthony Kelly engaged in serious corrupt conduct by, in 2010, misusing his office as a minister of the Crown by arranging for the preparation and submission of a minute to the Budget Committee of Cabinet with the intention of improperly favouring Edward Obeid Sr by enabling AWH to proceed to direct negotiation with the NSW Government concerning its PPP proposal for the purchase, supply and operation of water infrastructure in the North West Growth Centre.

Edward Obeid Sr engaged in serious corrupt conduct by: between late 2007 and 2010, misusing his position as a member of Parliament to promote AWH's interests to each of Michael Costa, the Hon Nathan Rees, the Hon Morris Iemma, Phillip Costa and the Hon Kristina Keneally, at a time when he knew that the advancement of those interests would financially benefit the Obeid family in the event a member of the Obeid family or an Obeid family entity acquired shares in AWH; in 2010, misusing his position as member of Parliament to influence Mr Kelly, Mr Brown and Joseph Tripodi to advance Obeid family interests by working towards the submission of a minute to the Budget Committee of Cabinet recommending the NSW Government enter into direct negotiations with AWH with respect to the AWH PPP proposal at a time when he knew that a successful outcome for that proposal would financially benefit the Obeid family in the event a member of the Obeid family or an Obeid family entity acquired shares in AWH.

Mr Tripodi engaged in serious corrupt conduct by, in 2010, misusing his position as a member of Parliament to prepare a draft Cabinet minute with the intention that it would be used by Mr Brown and Mr Kelly as the basis for a minute to be submitted by Mr Kelly to the Cabinet Standing Committee on the Budget with the intention of improperly favouring Edward Obeid Sr by enabling AWH to proceed to direct negotiation with the NSW Government concerning its PPP proposal for the purchase, supply and operation of water infrastructure in the North West Growth Centre.

ICAC RECOMMENDATIONS

The ICAC is of the opinion that consideration should be given to obtaining the advice of the Director of Public Prosecutions with respect to the prosecution of the following persons for common law criminal offences of misconduct in public office.

- **Mr Brown**, in relation to his misuse of his public office in preparing the Kelly Cabinet minute to the Budget Committee of Cabinet with the intention of improperly favouring Edward Obeid Sr.
- **Mr Kelly**, in relation to his misuse of his public office by arranging for the preparation of the Kelly Cabinet minute and its submission to the Budget Committee of Cabinet with the intention of improperly favouring Edward Obeid Sr.

- **Edward Obeid Sr**, in relation to: misusing his public office to promote AWH's interests to each of Michael Costa, Mr Rees, Mr Lemma, Phillip Costa and Ms Keneally at a time when he knew that the advancement of those interests would financially benefit the Obeid family in the event a member of the Obeid family or an Obeid family entity acquired shares in AWH; misusing his public office to influence Mr Kelly, Mr Brown and Mr Tripodi to advance Obeid family interests by working towards the submission of a minute to the Budget Committee of Cabinet recommending the NSW Government enter into direct negotiations with AWH with respect to the AHW PPP proposal at a time when he knew that a successful outcome for that proposal would financially benefit the Obeid family in the event a member of the Obeid family or an Obeid family entity acquired shares in AWH.
- **Mr Tripodi**, in relation to his misuse of his public office to prepare a draft Cabinet minute and providing it for use by Mr Brown and Mr Kelly as the basis for a minute to be submitted by Mr Kelly to the Budget Committee of Cabinet with the intention of improperly favouring Edward Obeid Sr.

BACKGROUND

The Commission's investigation commenced as a result of a complaint made to the ICAC in 2012 under section 10 of the *Independent Commission Against Corruption Act 1988*. That section provides that any person may make a complaint to the Commission about a matter that concerns, or may concern, corrupt conduct. The complaint concerned the possible acquisition by Obeid family interests of an interest in AWH in return for Edward Obeid Sr using his political influence with the NSW Labor Government to further the interests of that company.

The Operation Credo investigation was part of a composite investigation that included Operation Spicer. As there were factual links and some of the witnesses were common to both inquiries, it was decided that the evidence in one public inquiry would, where relevant, be available to be taken into account in the other public inquiry.

Commissioner the Hon Megan Latham presided at the public inquiry, the Operation Credo segment of which was held over 22 days from 17 March 2014 to 16 April 2014. In all, oral evidence was taken from 162 witnesses, of which 46 gave evidence in the Operation Credo segment.

The Commission has noted that preparation of the report in Operation Credo has been affected by litigation, legislative changes and the need to ensure that those involved are afforded procedural fairness. These issues are addressed in the report, which is available on the ICAC website at www.icac.nsw.gov.au.

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