

INDEPENDENT COMMISSION AGAINST CORRUPTION

STATEMENT IN THE MATTER OF: Operation Ricco

PLACE: Offices of Hill Rogers Spencer Steer

Level 5, 1 Chifley Square, Sydney

NAME: Gary Mottau

ADDRESS: Known to the Commission

OCCUPATION: Director, Hill Rogers Spencer Steer

TELEPHONE NO: Known to the Commission

DATE: 29 February 2016

States: -

1. This statement made by me accurately sets out the evidence which I would be prepared, if necessary, to give in Court as a witness. The statement is true to the best of my knowledge and belief, and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

2. I am [REDACTED] years of age.

3. I have been employed by Hill Rogers Spencer Steer Chartered Accountants since April 2010.

4. I have held my current position as Director since April 2010. Prior to this I was a Principal with Spencer Steer, Chartered Accountants from May 2009. Prior to this I was

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the Chief Financial Officer (Responsible Accounting Officer) at Warringah Council since May 2000.

5. I have the following qualifications:

- Registered Company Auditor since 1991(*) No. 345919
- Certificated Local Government Auditor, No. 674
- Fellow of Chartered Accountants Australia and New Zealand, No. 79645
- Fellow of Local Government Professionals Australia, NSW
- Fellow of the Local Government Auditors Association of NSW and Secretary/Public Officer of the management committee
- Member of the Institute of Internal Auditors Australia, No. 753949

(*) except for the period 2000 to 2009 whilst employed by Warringah Council

6. As Director, I have responsibility for the assurance engagement and its performance, and for the report that is issued on behalf of the firm.

7. Hill Rogers Spencer Steer is engaged as an external auditor for Twenty Seven local councils in NSW and has been conducting audits of NSW councils since at least 1996.

Audits of the City of Botany Bay Council (Botany Council)

8. I have been responsible for conducting the external audits of Botany Council since 2011.

9. The process Hill Rogers Spencer Steer follows in auditing Botany Council is to conduct concurrent audit procedures including two "interim" audits during the financial year and then a "final" audit at year-end.

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10. Interim audits focus on evaluating certain aspects of the Council's accounting systems and internal controls for the purpose of us to express an audit opinion on the annual financial accounts. This generally involves reviewing payroll, accounts payable, cashier receipting, bank reconciliations, investments, rates, annual charges, and a selection of sundry revenue items.
11. The key deliverable from interim audits is a management letter which outlines the audit findings, in particular the nature of the weakness or control issues for the purpose of us expressing an audit opinion on the annual financial accounts and, if applicable, our suggestions for improving administrative controls and comments by the Council's management.
12. The final audit focuses on the review and substantiation of the Council's year-end financial statements. This audit assesses whether there are material misstatements in the financial statements.
13. The key deliverable from the final audit is the Independent Audit Report which expresses our opinion on the Council's financial statements. In particular, our opinion concerns whether the statements are in accordance with 1) the Local Government Act (1993), 2) the Council's accounting records and financial position, and 3) applicable accounting standards, as well as whether there are any material misstatements in the accounting records and financial report. These reports are presented to the elected Council, together with the Independent auditors' report for Special Purpose Financial Statements, Audit Report for the conduct of the audit, Independent Auditors' Report for Special Schedule 9 (since 2014), Independent Auditors' Report for Domestic Waste Management Reasonable Cost Calculations (since 2014).

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14. My main liaison with Botany Council in conducting interim and final audits was with the Finance team, lead by Gary Goodman, the Council's Chief Financial Officer (CFO). In relation to the 2015 audit, I also discussed drafts with Karen Rowe (Co-ordinator, Financial Services), and Lorraine Cullinane (Deputy General Manager) when raising or seeking comments on issues raised in draft management letters.
15. Generally, Botany Council has been one of our more difficult metropolitan councils to audit. This is due to frequent delays in completing tasks required for our audit visits, responding to issues raised in a timely manner, cancelling or re-scheduling meetings, and with their repeated failure to adequately address issues such as the lack of role segregations, lack of reconciliations, and following up evidence of the existence of controls in the authorisation of expenditure.

Interim audits and management letters


16. Results of interim audits are formally presented to the management of Botany Council in the draft management letter. The draft letters are issued to Gary Goodman, the Council's Chief Financial Officer (CFO) for consideration and comments.
17. The purpose of issuing draft management letters to the Council's management is to seek their comments to the issues we have identified. Their comments may lead us to revise or remove some issues from the final management letter.
18. The final management letter is issued to the Council's management once we have received a response from management to our draft letter or, if agreed by the management, the final letter is issued without management's comments. This final management letter is addressed to the General Manager.

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19. Since 2014, Hills Rogers Spencer Steer has not issued a final management letter because we are unable to reach agreement with Gary Goodman, the Council's Chief Financial Officer (CFO) regarding all issues presented in the draft management letters, nor have we obtained advice from him to issue the final management letter without management comments. This is very unusual in my experience.
20. Ultimately it is my responsibility to finalise management letters and this is considered annually at the time of planning the next year's audit.
21. During the consultation on the draft management letter, we schedule several meetings involving Council's senior finance staff, Chief Financial Officer and Deputy General Manager. We also communicate summaries of issues raised in the draft management letters in the Audit Committee meeting and report the existence of management letters to the elected council in our report on the conduct of the audit.
22. Regardless of whether we finalised management letters, all versions of draft management letters were always issued to Gary Goodman, the Council's Chief Financial Officer (CFO). Where draft management letters were not finalised, our conduct of the audit report included disclosure that draft management letters were issued. Specifically these disclosures were in point 7 of our conduct of the audit report dated 7 November 2014 and point 8 of our conduct of the audit report dated 30 October 2015. Similarly, reports to the Audit Committee dated 18 November 2014 and 27 October 2015 included disclosure of the existence of draft management letters.
23. Botany Council's management have, at times, requested that we remove issues identified in the draft management letters. We generally remove issues on the basis that an issue has

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been addressed. Where management has put in place plans to address the issue, we will document the progress made at the time of revision. Changes in the draft management letter are supported by audit evidence, such as tests performed to verify the processes put in place, including an inspection of supporting documentation to establish the plans have been implemented.

24. Hill Rogers Spencer Steer did remove some issues from the draft management letter we issued in April 2015. This was in response to Botany Council's finance division (specifically, Karen Rowe) requesting that some issues presented in the letters be removed on the basis that "The items ... are not really at a risk level that needs to be reported in the formal report". (email dated 14 May, 2015). For example, one request concerned role segregations within finance, specifically point 2.6 in the letter:

"During our visit, we reviewed user access levels to major modules of the financial management software including general ledger, payroll, accounts payable and bank reconciliation and noted that there is high level of concentration on one member of staff who has administrator access, but is also involved in critical finance roles such as ledger posting including journals, generating master-file maintenance report, etc

Segregation of duties is critical to effective internal control as it reduces the risk of erroneous and inappropriate actions and assists with business continuity.

Suggestion for improvement

To reduce the potential risk of fraud and disruption to normal operating procedures, system access levels of system users should be reviewed and altered as necessary"

The request to remove this text from the draft letter was made on the basis that this issue had been resolved, specifically that:

Segregation of duties has commenced.

** Journals are now performed by 2 staff members with sign off from mgmt. The administrator no longer processes journals.*

** we are writing reports that allow staff to reconcile their own areas including AP, Contributions, GST, investments*

** Ledger access is being reviewed and the required access for staff to complete their current tasks is adequate.*

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In this instance, we removed the requested text from the management letter on the basis that management had implemented additional administrative controls in relation to the supervision and review including the existence of an additional financial management position in the organisation structure, specifically Karen Rowe (Co-ordinator, Financial Services). Subsequent changes were made to the draft management letter and issued as a further draft on 28 May 2015. The updated draft resulted from removing items in relation to the payments cycle following management responses and explanations received to our queries with regard to general ledger allocations and tender requirements respectively. The latest draft was issued by email to Gary Goodman on 10 June and 15 June 2015 after removing items 1.5 System Level Access and 2.3 Accounts Payable following the receipt of management comments explaining the controls now relied on to ensure that the risk of misstatement is minimised.

25. The most concerning issues identified in our interim audits of Botany Council in recent years have been reconciliations and procurement-to-pay process due to their recurring nature and the impact these issues have had on the timely preparation and completion of annual financial statements.

Audit Committee.

26. Hill Rogers Spencer Steer reports to Botany Council's Audit Committee annually. This consists of providing the committee with a separate "Report to Audit Committee".

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27. The Audit Committee Report focuses on clarifying any outstanding issues with finalising Council's annual financial reports, discussing key audit findings and considering matters relevant to independence and audit quality. It includes a dot-point list of the issues identified in management letters.
28. The focus of Hills Rogers Spencer Steer reporting to the Audit Committee is the Council's annual financial statements, not the performance or management issues raised in management letters.
29. Management letters are not sent by us to the Council's Audit Committee or elected council as they are not required by legislation and its content is designed to assist management in identifying areas which could be improved to more effectively produce reliable financial reports.
30. I attend one of Botany Council's Audit Committee meetings each year to clarify any outstanding issues with finalising Council's annual financial reports, discuss key audit findings and matters relevant to independence and audit quality. The report focuses on the audit process leading to forming our opinion on Council's financial statements. I do not generally discuss aspects of the interim audits or management letters with the Audit Committee unless the issues are causing delays in finalising the annual financial reports or the issue is raised by a member of the Audit Committee.
31. Outside of this meeting, Hill Rogers Spencer Steer does not have any direct dealings with the Council's Audit Committee.

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32. I would not usually expect that a Council's Audit Committee would be aware of management issues raised in our audit management letters unless management tabled the letters on the Audit Committee's agenda.

33. Before his recent passing, the Chair of Botany Council's Audit Committee was Mr Norman Mah Chut, who was previously an audit partner with Spencer Steer and last issued an audit report to the City of Botany Bay on 30 October 2009.

34. The reports issued to the audit committee raised the following issues:-
in 2015

- Management representations in relation to, inter alia, risk management activities, including fraud risk;
- Responses to queries in relation to fixed assets, inter alia,
 - o review of changes in depreciation due to revised useful lives; and
 - o work paper for assets renewal;
- Audit evidence of GST refund;
- Audit procedures in respect of fraud risk including review of manual journals;
- Review of updated financials including general purpose financial statements and special purpose financial statements;
- Subsequent events review; and
- Receipt of signed resolution of Council pursuant to Section 413(2)(c) of the Local Government Act 1993 (as amended).

Key audit and accounting findings arising during the year relate to:

- Bank Reconciliations
- Rates

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NSW ICAC EXHIBIT

- Payroll
- Sydney Airport Business Unit
- Developer Contributions
- Aquatic Centre
- Childcare Centres
- Draft Code 23

These issues were the subject of a letter drafted for management's attention on 10 June 2015.

Corrected audit misstatements are included on page 10 of the report.

In 2014:-

Key audit and accounting findings arising during the year relate to:

Bank Reconciliations

- Accounts Payable
- Procurement - Tendering
- Rates
- Payroll
- Investments
- Sydney Airport Business Unit
- Receipting
- Plan First Fees
- System Access Level

These issues were the subject of a letter drafted for management's attention on 6 May 2014.

Corrected and uncorrected audit misstatements are included in pages 10 to 13 of the report.

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In 2013:-

- Review of depreciation;
- Review of other creditors;
- Review of commitments;
- Review of the Special Purpose Financial Statements;
- Subsequent events review; and
- Receipt of signed resolution of Council pursuant to Section 413(2)(c) of the Local Government Act 1993 (as amended).

Key audit and accounting findings arising during the year relate to:

- Bank Reconciliations
- Accounts Payable
- Procurement - Tendering
- Rates
- Cashing Out of Annual Leave
- Manual Receipting
- Trade Waste
- Hire & Usage Charge
- Staff Access to Financial Systems

These issues were the subject of separate letters issued to management on 24 April 2013 and 28 June 2013.

Corrected audit misstatements are included on pages 10 to 12 of the report.

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