

Gifts as inducements and false invoices for cash kickbacks

ICAC FINDINGS

The ICAC found that the following people engaged in corrupt conduct by receiving gifts and benefits from supplier companies as an inducement to continue placing orders with these companies or as a reward for placing orders with these companies: Glen Lapham of Ballina Shire Council, Graham Gibbons of Bathurst Regional Council, Anthony Harman of Broken Hill City Council, Ronita Tompsett of Burwood Council, Robert Vagne of Byron Shire Council, Donald Harris of the Council of the City of Botany Bay, Jeffrey Duncum, Edwin Roger Martin, Christopher Myers and Robert Nies of the Council of the City of Sydney, Steven McMurtrie and Lee Warner of Lithgow City Council, Maxwell Bancroft and Amjad Maaya of Liverpool City Council, Mathew Kelly of Narrandera Shire Council, Peter Evans and Peter Lewis of Orange City Council, Phillip Burnie of the Roads and Traffic Authority, Mark Ward of Walgett Shire Council, Scott Ingwersen and Peter Naidoo of Waverley Council, and Kerry Smith of Yass Valley Council.

The ICAC found that the following people engaged in corrupt conduct through their involvement in offering gifts and benefits to public officials as an inducement for those officials to continue placing orders with their companies: Eron Fisher, Richard Pearce, Douglas Quinn and Martin Slade of Hilindi Pty Ltd, Ronald Butow, Paul Goldin, Ellis Kahn, Mark Moskow and Jody Parker of Momar Australia Pty Ltd, Gary Blackford, Robert Epps, Peter La-Vite, Sri Ramachandran and Jacqueline Verdeyen of NCH Australia Pty Ltd, and John Morgan of Universal Cartridges Pty Ltd.

The ICAC found that Geoffrey Hadley, Robin Newman, Kerry Smith, Michael Stokes and Paul Wright engaged in corrupt conduct in relation to false invoices issued to Bathurst Regional Council and/or Yass Valley Council.

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 nine people for various offences, as follows:

- Phillip Burnie for the offence of giving false or misleading evidence at a hearing of the Commission under section 87(1) of the *Independent Commission Against Corruption Act 1988* ("the ICAC Act")
- Mathew Kelly for the offence of making a false statement to an officer of the Commission under section 80(c) of the ICAC Act, and the offence of giving false or misleading evidence at a hearing of the Commission under section 87(1) of the ICAC Act
- Glen Lapham for the offence of wilfully obstructing or hindering the Commission's exercise of its functions under section 80(a) of the ICAC Act, the offence of making a false statement to an officer of the Commission under section 80(c) of the ICAC Act, and the offence of giving false or misleading evidence at a hearing of the Commission under section 87(1) of the ICAC Act
- John Morgan for the offence of offering a corrupt benefit under section 249B(2) of the *Crimes Act 1900* ("the Crimes Act"), and the offence of giving false or misleading evidence at a hearing of the Commission under section 87(1) of the ICAC Act
- Richard Pearce for the offence of offering a corrupt benefit under section 249B(2) of the Crimes Act
- Kerry Smith for the offence of receiving a corrupt benefit under section 249B(1) of the Crimes Act, the offence of obtaining financial advantage by deception under section 178BA of the Crimes Act, and the offence of obtaining financial advantage by false or misleading statements under section 178BB of the Crimes Act

continued overleaf...

ICAC RECOMMENDATIONS *(continued)*

- Michael Stokes for the offence of offering a corrupt benefit under section 249B(2) of the Crimes Act, the offence of obtaining financial advantage by deception under section 178BA of the Crimes Act, and the offence of obtaining financial advantage by false or misleading statements under section 178BB of the Crimes Act
- Jacqueline Verdeyen for the offence of giving false or misleading evidence at a hearing of the Commission under section 87(1) of the ICAC Act
- Paul Wright for the offence of offering a corrupt benefit under section 249B(2) of the Crimes Act, the offence of obtaining financial advantage by deception under section 178BA of the Crimes Act, the offence of obtaining financial advantage by false or misleading statements under section 178BB of the Crimes Act, the offence of making a false statement to an officer of the Commission under section 80(c) of the ICAC Act, and the offence of giving false or misleading evidence at a hearing of the Commission under section 87(1) of the ICAC Act.

The ICAC is of the opinion that consideration should be given by the Roads and Traffic Authority (now Roads and Maritime Services) to the taking of disciplinary action against Phillip Burnie in relation to his conduct in accepting gifts from a supplier and by the Council of the City of Sydney to the taking of disciplinary action against Edwin Roger Martin and Robert Nies in relation to their conduct in accepting gifts from a supplier. Ten of the public officials whose conduct is examined in the report have already resigned from their positions and others have already been subjected to disciplinary action.

CORRUPTION PREVENTION

The ICAC has made 15 corruption prevention recommendations to all councils in NSW, as it is evident that the conduct uncovered during this investigation is systemic and all councils should take action to mitigate these risks.

BACKGROUND

The Commission commenced the investigation after it received a report from Bathurst Regional Council under section 11 of the ICAC Act, which requires the principal officer of a public authority to report matters that the principal officer suspects involve, or may involve corrupt conduct. The council had received an anonymous email that it has been “ripped off” in the amount of \$400,000 over a period of six years.

The ICAC held a public inquiry as part of the investigation over 14 days, commencing on 4 October 2011. The Hon David Ipp AO QC, Commissioner, presided at the public inquiry, at which 55 witnesses gave evidence. The report is available on the ICAC website at www.icac.nsw.gov.au.

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