



CRIME AND CORRUPTION COMMISSION

TRANSCRIPT OF INVESTIGATIVE HEARING

10 CONDUCTED AT LEVEL 2, NORTH TOWER, 515 ST PAULS TERRACE,
FORTITUDE VALLEY WITH RESPECT TO

File No: CO-16-1664

HEARING NO: 17/0001

DAY 9 – WEDNESDAY 14 JUNE 2017
(DURATION: 00HR 36MINS)

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LEGEND

PO Presiding Officer – ALAN MACSPORRAN QC
CA Counsel Assisting – GLEN RICE QC
30 HRO Hearing Room Orderly – MELISSA LETONDEUR
W Witness – ANDREW SUTHERLAND
LR Legal Representative – MR D A FUNCH, instructed by Hall Payne Lawyers

PO Mr RICE.

CA Commissioner, I call Andrew SUTHERLAND.

PO Mr SUTHERLAND, do you have any objection to taking an oath?

W Not a problem.

10 PO Thank you.

HRO The evidence which I shall give.

W The evidence which I shall give.

HRO In these proceedings.

W In these proceedings.

20 HRO Shall be the truth.

W Shall be the truth.

HRO The whole truth.

W The whole truth.

HRO And nothing but the truth.

30 W And nothing but the truth.

HRO So help me God.

W So help me God.

PO Mr FUNCH, you appear for Mr SUTHERLAND?

LR I do. At the risk of sounding repetitive, can I just confirm, please, that
40 Mr SUTHERLAND is protected by a blanket privilege pursuant to 197(5)
of the Act?

PO Yes, Mr SUTHERLAND has that protection.

LR Thank you.

CA Is your name Andrew SUTHERLAND?

W Yes.

50 CA Mr SUTHERLAND, do you appear here in response to a notice to attend?

W Correct.

CA Can I show you this?

W Yes.

- CA Is that a copy of the notice that you received?
- W Yes.
- CA I tender that.
- PO Exhibit 132.
- 10 CA What's your current position, Mr SUTHERLAND?
- W Assistant secretary of the CFMEU Queensland and Northern Territory Branch.
- CA How long have you occupied that particular position?
- W Approximately 18 months.
- 20 CA Did you have another position in the union prior to that?
- W I was an organiser and a coordinator.
- CA For how long have you been associated with the union?
- W I've worked for the union on a salary for six and a half years.
- CA You would be aware, I think, that the union assisted certain campaigns - certain candidates, rather, with some campaign expenses for the 2016 local elections, local government?
- 30 W Yes, correct.
- CA Do you know a candidate by the name of Penny TOLAND?
- W I do.
- CA She was a mayoral candidate for the Gold Coast in the 2016 elections?
- W Correct, yes.
- 40 CA Do you recall what was your first contact with her concerning possible CFMEU assistance with her campaign?
- W Yes, I do. I was contacted out of the blue. I hadn't met or knew of Penny before that. A message saying that she'd been speaking to my predecessor previously to that about some support running for the Mayor of the Gold Coast. Asked me if I'd meet with her. I agreed to it, and it went from there. That was the first.
- 50 CA How did you receive a message?
- W On Facebook. Facebook Messenger.
- CA Did she initiate that message?
- W Yes, correct.

- CA Had you had any contact with her before, that you know of?
- W The first I'd ever heard of her.
- CA She knew somebody else - your predecessor, I think?
- W Yes.
- 10 CA Occupying the same position as you now occupy?
- W Correct.
- CA Did you take some action in relation to the messages you got?
- W I met with her to see - to find out what she was about, hear her story and what she was putting forward, what she planned on doing.
- 20 CA Did you initiate that meeting?
- W I can't recall who asked who to meet. I'm guessing she would have asked me. I'm not sure. I'm not sure who asked who, but we met at a coffee shop and I listened to what she had to say, and I made the decision to put her forward to Michael for the possibility of a meeting at the union office to hear a bit more about what she planned on doing.
- CA What did she say to you at that first meeting when you had coffee to prompt you to take it to a next step?
- 30 W Just told me a bit about her background, where she came from, her values, yes, what she did for work - those sorts of things.
- CA Was she seeking anything?
- W Pardon?
- CA Was she seeking anything, asking for anything?
- W No, not - no.
- 40 CA You listened to that, and what did you do as a result?
- W I spoke to Michael about her and he said that we'd been contacted by a couple of different - a few different candidates for different seats, all different positions, either mayoral or division candidates. I said, "Okay, yes, well, she sounds like she'd be worth talking to", so she was one of the ones that we met with.
- 50 CA When you say "we", who are you speaking of?
- W Well, myself and Michael met with her and one other one that was from down the Gold Coast.
- CA What was the purpose of that meeting?
- W So that we could hear in full exactly what she planned on doing, what her

intentions were, what her values were, what she was going to stand for if elected, what she was going to bring to the community, what benefit that would give to our members and the community and their families - those sorts of things.

CA Once again, at this meeting that you had with her and Mr RAVBAR, did she make any requests?

W No.

10

CA Had the union, by the time that you had met with her, made it known in some way in the community that it was considering assisting certain candidates for local government election?

W I don't believe so. I couldn't say for sure, but I don't think we were going out publicly.

CA Well, perhaps not publicly. In any way?

20

W What do you mean by "community"?

CA Well, you tell me. If the union had taken any steps to make it known to potential candidates that the CFMEU might be a source of assistance?

W I'm not sure. I don't - I'm not sure.

CA What was the upshot of the meeting that you and Mr RAVBAR had with Ms TOLAND?

30

W The outcome of that was that - I can't remember the details of it, but we would have had a meeting about it afterwards and decided that she was potential - potentially someone we would give some support to, campaign for in certain areas where needed.

CA Who was the decision-maker in that respect?

W Michael.

CA Was that decision communicated to her, do you know?

40

W Oh, yes, it would have been, yes.

CA Well, did you do it?

W I probably did. I don't know in what regard or what - how I relayed that to her. I certainly wouldn't have gone and said, "Yes, I'm going to commit to this, I'm going to commit to that." I probably would have said, "Yeah, Michael's prepared to help out along the way if needed."

50

CA You have no specific recollection of doing that?

W No, I don't, really, no. I'd be speculating.

CA At any rate, there had at least been an approval in principle that she was someone the union might be prepared to assist?

- W Correct.
- CA Were there any parameters imposed on that assistance?
- W Insofar as amount of money or what we were prepared to spend; is that what you-
- CA Yes, amount and what type of thing?
- 10 W Okay. No, not to me. I daresay Michael would have had a figure in his head. I'm certainly not the money man. Anything that needed approving ultimately goes through Michael, and if we get to a point where he's not prepared to fund or supply a certain thing, he'll just say "no", and it's up to her if she wants to go ahead with whatever that is to find someone else to do it for her or-
- CA Okay. Certain expenses were incurred by the union, weren't they, in relation to her campaign?
- 20 W Correct, yes, yes.
- CA Can you tell us what process there was in place to administer this arrangement?
- W Yes. I wouldn't say a process so far as every single thing that was provided for her campaign followed the same route. How we ended up at providing certain things, a lot of the time it was a case of we could see that it needed to be done. We would suggest it or ask her if she had anybody available to do it. If not, we would go and get some quotes and possibly look at providing that for her campaign, like T-shirts or corflutes or handouts or stuff like that. If there was an obvious hole that needed to be filled in her campaign, you know, we would go and ask her or her campaign managers that were helping out, "Has anyone looked at this? Is this sorted?", and, if not, we would look at doing it and get quotes and-
- 30 CA It sounds like someone was assessing the shape of her campaign; is that right?
- W Yes, there was a couple of people that were helping out with her campaign, yes.
- 40 CA I mean from the union's side, from what you said a moment ago?
- W Oh, yes, I was overseeing anything that we were spending down there, yes.
- CA Did you make any suggestions as to the way in which her campaign might be conducted?
- 50 W I'd say yes, at different times. It's members' money, and if we're spending that on a campaign to try and get someone elected and I think that they're doing something wrong, I'm going to point it out to them, yes.
- CA Were you or anyone else in the union tasked to be the person who would interface between her and the union for the purpose of using union money?

- W No-one was really tasked with it. I guess-
- CA Well, did you or anyone else assume that responsibility?
- W I don't know if you would call it "assume". It just made sense that I did it. I lived down the coast. I had all contact with her. So, yes, I did the majority of it.
- 10 CA So were you her contact in the union?
- W Yes.
- CA For the purpose of the union assisting with her campaign?
- W Yes.
- CA So which of you would identify what particular things money should be spent on?
- 20 W I would probably identify, or it may be suggested to me by volunteers or members of ours that are helping out. They might see something that needs to be done and suggest it to me, and then I'll speak to Penny or speak to the other people helping out in the campaign. If we decided that it was a good idea to try and have a look at providing that, then I'd go and run it by Michael and then go about getting quotes and stuff for it.
- CA That's one way in which money may have been spent. Did she make any particular requests of you as opposed to things that you and other members perhaps identified might be beneficial?
- 30 W I don't know that I would say she made specific requests of the union. She would have - all campaigns have certain things that need to be done on certain dates and How to Vote Cards and obviously campaign material that needs to be printed and available by certain times leading up to the election. Now, there would have been a list of what was still outstanding. She didn't specifically come and ask us or request us to purchase certain things. We would assess that ourselves, or I would assess that and go, "That's critical. That's valuable. That's not so valuable", and work it like that, and then I'd go back to Michael once I'd made that evaluation.
- 40 CA If you made that kind of evaluation, did you inform Ms TOLAND of the outcome?
- W At some stage, yes. At some stage, I would have.
- CA Did you get down to tin tacks and say to her, "Look, we've identified three things that really need to be done", and interact with her about the necessity? Was there such interaction?
- 50 W Sometimes. Sometimes. Other times she was doing a lot of interviews, and so forth, that had been booked in for her. She had a pretty extensive programme. I'm not sure who put that together, but she had a number of meetings and dates that she needed to meet. If I didn't speak to her, I would speak to other people that were helping out down there also got done.

- CA Insofar as you identified things that needed to be done, who arranged for costings and for the tasks to be performed?
- W Generally, in the instance of Penny TOLAND - and I can only speak for what happened down there - it turned out that it was going to be easier for most things, or pretty well everything, that anything that we were supplying for myself or someone, I would task someone with getting quotes and getting a quick turnaround and good value for money for the members' money we were spending on the campaign. So generally, in this instance with Penny, I would go and get the quotes and run it past Michael before we got the okay and then make the order.
- 10
- CA With respect to any particular item of expenditure that you had identified and got approved, would that have occurred without reference to her, that is to say, without her knowing about it?
- W I don't know. I don't know.
- 20 CA Perhaps if we look at a list, that might help your memory.
- W Yes.
- CA Exhibit 125 will come up on the screen, Mr SUTHERLAND. You will probably see it well enough from there. There are two sheets, I think. The first is actually an email.
- W Yes.
- 30 CA Do you recognise that as an email from you to Ms TOLAND?
- W I do.
- CA Dated the 1st of July 2016?
- W Correct, yes.
- CA For what reason did you send that to her?
- 40 W We were doing our disclosure, disclosing to the AEC how much we spent on each candidate. So we sent a copy of that, open and transparent, to each candidate so they knew exactly what we'd spent and there wasn't anything missed.
- CA So it was a matter of - you're disclosing to her what the union had spent?
- W Yes.
- 50 CA If we go to the details, there is a range of things. The major expenses are well and truly in the second half of that list.
- W Yes.
- CA Take the most expensive, for example, the last, which is referred to on the list as "Transit advertising" and it amounts to over \$14,000?

- W Yes.
- CA Do you remember what that expense was?
- W I do. Bus advertising.
- CA Was bus advertising used as part of her campaign?
- W It was, yes.
- 10 CA Can you explain what that consisted of?
- W It was 10 buses, full back advertising for maybe three weeks leading up, or something like that. But it was 10 buses, full back.
- CA Do you know whose idea it was to use the bus advertising?
- W I can't recall who came up with it.
- 20 CA Was it you?
- W I know there was an email that I received, and when I went back through and found that email, it was these Go Transit people contacting me and they'd been given my details from a couple of other people that were working on the campaign. So I can't recall what happened leading up to that. It was a good idea. I still think it was a good idea. So I took it to Michael.
- CA You can't recall whether it was your idea or whose idea it was?
- 30 W It wasn't my idea.
- CA Someone must have made the suggestion-
- W Yes.
- CA -known to you so that you could take it to Mr RAVBAR?
- W I cannot recall. I can't recall who made the suggestion to me. It would have been mentioned to me. Maybe - I think it's Janine or - I think his name was James or something. Someone had done a bit of legwork there, anyway, prior because the email that I got from Kirrily HIRST in the first instance from Go Transit already had the design work or the artwork, Penny's artwork, on the back of the bus. So someone has provided them with the artwork for a quote, but I'm not sure who that was.
- 40 CA We might just pause with that item, and since you have mentioned this email from Kirrily HIRST, I'll just show you this one.
- 50 W Thank you.
- CA Is that a copy of an email from Kirrily HIRST to you dated 12th February 2016?
- W Yes.

- CA Do you recall receiving that?
- W Yes. Yes, I recall getting an email, and I found this, yes. This is the email.
- CA There is another sheet attached to it. Was that part of the email?
- W Correct.
- 10 CA Forwarded to you by Kirrily HIRST from Go Transit; correct?
- W Correct.
- CA What's Go Transit's business, do you know?
- W Bus advertising.
- CA We see there some artwork, which is the attachment.
- 20 W Yes.
- CA Do you know who prepared that?
- W No. No, I don't.
- CA Do you know whether it was someone from the union?
- W No. This is the first I've heard of any of the bus advertising, was if me - well, someone may have mentioned it to me and I may have - I really honestly don't recall what happened prior to that.
- 30 CA It had got to the stage-
- W I would have asked-
- CA By the time of this email, it had got to the stage someone had done a layout?
- W Yes.
- 40 CA You don't know who did that?
- W This has happened earlier in the piece. I'm not sure who.
- CA You have no knowledge of it?
- W No.
- 50 CA The email refers to the names of two persons who had, so it reads, passed on your contact details to Kirrily HIRST?
- W Yes.
- CA Had you had any dealings prior to this email with either of those persons, James MIFSUD or Janine AITKEN?

- W Yes, I had, yes, yes. They were both working on Penny's campaign. They were working on the campaigns of a few different candidates that they had relationships with, or whatever the - I'm not sure. I can't speak for them, but they were working - the campaign teams were all working for a few different entities around the traps, and I think they'd signed up to a bit too much, to be honest. There was a lot of things like this, that obviously someone has started out doing and then they're either time poor or they can't find anyone that's going to pay for it and it has just been parked up and then it has ended up on my email.
- 10 CA Do you know whether Penny TOLAND participated in discussion about the use of this kind of advertising?
- W I couldn't tell you.
- CA Speaking for yourself, do you have any recollection of doing so?
- W No, I don't.
- 20 CA Do you have any recollection of discussing with her the cost of it?
- W Like, vaguely afterwards. Maybe not the cost. I vaguely remember conversation after it saying, "This is what Michael's prepared to do." I'm not sure if there were money figures spoken about.
- CA When you say "after", after what do you mean?
- W Michael - after Michael - I've taken it to Michael and so forth, he's said, "Yes, okay, we'll go with this package." I would have - yes, I would have had a conversation. I vaguely remember having a conversation about, "This is what Michael's prepared to do." As far as her input into organising or anything prior to that, I couldn't tell you.
- 30 CA You don't know whether she played any role in the layout that's depicted at the attachment to the email?
- W That's her standard - that was Penny's standard artwork, or there was a couple of different layouts, but that was one of her standard artwork templates that was on corflutes and stuff like that. So that would have just been a JPEG file that got sent through. That wouldn't have been any big thing, like designs purely for the bus. It would have been just something - a file that was sent through that had been used for corflutes, that had been used for flyers, that had been used for How to Vote Cards.
- 40 CA Something already in existence?
- W Yes, someone - one of her - someone that was supporting her campaign that was a graphic designer, or something along those lines, had done the artwork for her early in the piece, and those files just got used repetitively when needed.
- 50 CA The email asked if there was an opportunity to discuss the bus advertising with you. Do you recall following up on this email?
- W I remember speaking after that with this Kirrily Hurst, if that's what - yes, Kirrily HIRST, and following it through. Yes, I did. I had a couple of

conversations with her, got the costings and so forth and went through the normal procedure of speaking to Michael about it, and he made a decision on what we were going to go with, and then getting the order done.

CA Well, what would your reaction be to the proposition that Ms TOLAND wasn't told anything about the bus advertising campaign until after the event, that is to say, until it was done and the buses were driving around?

10 W I would say to you that prior to buses driving around, I would have confirmed that we were going to supply the artwork on the back of the buses. I can only speak for myself. I would have had a conversation saying, "Hey, I've received this stuff about the artwork on the buses. We're prepared to do this for your campaign", and that would have been before they were on the bus, yes, I-

CA Are you speaking about communication with Ms TOLAND?

20 W Yes, yes. I'm not sure what conversations she's had with James MIFSUD and Janine AITKEN prior to this or who initially sent Go Transit the file to do up the quote and the artwork on the bus, so I'm not sure who, yes.

CA I tender that email and attachment.

PO Exhibit 133.

CA Perhaps then going back to the list which was part of Exhibit 125-

W Thanks.

30 CA -there are other expenses there that from the description - we're looking at the last half dozen or so entries. There are a couple of payments, it appears to be, to Apparel Productions?

W Yes.

CA At least one of which is campaign shirts?

W Yes.

40 CA Do you have any recollection of those?

W I do.

CA Do you know how that expenditure was initiated, that is to say, whose idea it was?

50 W I believe they were [Hi-Vis] shirts and I had made the decision that it would be a good idea to do that, being that our members predominantly work in the construction industry and could use those T-shirts as Hi-Vis T-shirts leading up to the election and get Penny's name out there a bit more.

CA Did they contain any information referring to Ms TOLAND, like-

W I think they had, like, "Vote 1 Penny TOLAND" or something like that on it. It was pretty basic, mmm.

- CA Was she informed that these shirts were being ordered; do you have any recollection of that?
- W I would have told her that I was getting the shirts.
- CA Why do you say that you would have told her that? What makes you say that?
- 10 W I'm providing a bunch of shirts for her campaign. I'm going to let her know that they're coming, yes. Everyone is going to be wearing them on election day or handing out flyers or so forth, so, yes.
- CA Do you recall that these particular shirts were provided to her or someone on her behalf, or what happened to them?
- W We would have dropped them down at the campaign office. We would have kept a bunch in one of our cars for site meetings that we were doing with Penny to get her out and about, get her in front of some of our members. She came and spoke at our Gold Coast sub-branch meeting. So at these places, we'd have T-shirts there available for people to take, and if people were out doing some volunteer work for her, letterbox dropping and so forth, they would take a couple of shirts so they had shirts to wear of an evening or whenever they were doing that.
- 20 CA You express yourself in terms of the shirts "would have been delivered to her campaign office". Do you have any specific recollection that that occurred or are you surmising that that's the logical thing?
- 30 W Yes. Yes, I can't say-
- CA I just want to test your memory.
- W I can remember seeing a box down there and I ordered and picked up the T-shirts, so I'm just joining two and two together that I've dropped them down there and I would have kept a box in the back of my car to take to site in whatever - however many days it was after that that we went and did the site meetings.
- 40 CA There are other things on the list apparently to do with printing?
- W Mmm-hmm.
- CA We see a couple of entries are referable to Pol Printing Ltd. The first of them on 16 - well, on the list, it's 16 March, by the looks, "TOLAND HTV", "Pol Printing" and there is an amount of \$3,141.
- W Hi-Vis - oh, HTV.
- 50 CA Do you know what that would represent? Does HTV any significance?
- W Not to me at this point in time. I don't know what that is. How to Vote Cards.
- CA I see, yes. Do you know who ordered those?

- W It would have been someone at the union, whoever was - whoever was making the orders to the printer that we were using for different candidates, if we were getting them How to Vote Cards or we were getting them corflutes or getting them flyers. I don't recall what printer it was that we were using. Obviously it's whatever it's called here.
- CA It looks like Pol Printing.
- 10 W Yes. Whoever was - I wasn't organising those orders. Someone in our office was doing all the ordering for all the different candidates from the central - you know, one person.
- CA Once again, do you remember whether this was done with her knowledge and involvement or-
- 20 W That sort of thing, the How to Vote Cards and so forth - I vaguely remember, like, a list of when we needed to have things done for each campaign, and that would - I'm not sure who put that together, but it would have been floating around at a campaign office and there would have been holes in it, ie, people needed to provide the How to Vote Cards or corflutes or flyers by these dates, and I would have had access to that. So, righto, what do we need? What's still outstanding? And we would have made the decision to provide them for her.
- CA Did you take a degree of control over the progress of her campaign by suggesting and arranging things that you thought were necessary?
- 30 W I don't know if you'd call it a degree of control. I kept an eye on it and made sure that it wasn't going to fall over for some ridiculous reason when everyone has put all the hard work and money into trying to get her up and win the election and then something stupid happens and it falls over. So I was keeping an eye on it, yeah. We're spending money. I want to make sure that she has the best opportunity of winning.
- CA Was she made aware that the union was arranging How to Vote Cards for her?
- 40 W Someone would have let her know that, okay, we don't have to worry about that any more. I'm not sure who that is. I'm not sure if I let her know. Maybe I did. I'm not sure. But she would have been made aware that that was no longer an issue. She was more interested in doing her interviews, and the commitments that she had leading up to the election was her main priority during the campaign.
- CA From what you've said, it sounds like there was someone else, apart from yourself, who was assisting with the arrangements for these expenses for her campaign?
- 50 W Janine and James were doing-
- CA But from the union, I mean.
- W Well, there was a number of organisers or staff that all chipped in to the different - to the campaigns when needed. That's just the way it goes.
- CA Was there a team of people, a dedicated team?

- W Well, there was a number of us at the union - when I say "a number", you know, three or four - that that was a task that we had to do, was make sure that any support we were giving to the candidates was being managed. And basically it's just good housekeeping to keep an eye on what's going out and what's coming in to the union. Like, it's more so to make sure that what we're providing is being used effectively and there's no wasted money.
- 10 CA Do you know whether there were any of your union colleagues in contact with Ms TOLAND about the incurring of any of these expenses?
- W Maybe the How to Vote Cards and stuff like that, but I couldn't say for sure. Like, apart - I can't say what contact she had with anyone else there.
- CA And you're not clear on the extent of your own contact with her?
- W Whether I let her know or whether I let somebody like Janine or James know that, okay, the How to Vote Cards are sorted or the corflutes are sorted or the flyers are sorted, I would have conveyed that so that it could be ticked off the list. So whether I let her know or whether I let her know inadvertently through someone else, she would have been made aware.
- 20 CA Is that something that you would expect would have occurred-
- W I would expect so, yes.
- CA -or is it something you have a recollection of doing?
- 30 W It's something I would do and that I did do. I can't specifically remember for each instance, but it makes no sense to me not to do that. If you're going to get something approved and get it put in place or printed or provided or supplied, you would make sure that they knew that that was sorted and they didn't have to put any more time or effort or go looking for someone else to provide it, being that it's already done.
- CA What about another candidate by the name of Kimberly JAMES - did you meet with her?
- 40 W Kimberly JAMES - no. What seat was she running in?
- CA Division 3 in Moreton Bay Regional Council.
- W No, I had nothing to do with the northern candidates, no.
- CA Do you recall whether you had any meeting with her such as the first one that you had with Ms TOLAND?
- W I couldn't tell you. I did meet with a couple. I know for sure that I was at Susie GALLAGHER's. She was another candidate running down the coast. I was at that initial meeting. I cannot - I can't confirm 100 per cent if I was at any others, to be honest.
- 50 CA You don't recall that name?
- W I know the name.

CA Do you?

W Yes, I know the name.

CA Do you know what the lady looks like?

W Yes.

10 CA If I show you a picture, would that help?

W I know what she looks like.

CA Okay. Well, I'll ask you again, do you recall whether you attended any meeting with her?

W I don't recall attending any meeting with her, no.

CA At all?

20 W No.

CA Or have any discussions about her campaign with her?

W No. I definitely didn't do that.

CA That's the evidence, Commissioner.

PO Thank you, Mr RICE.

30 Mr FUNCH, do you have any questions?

LR No, Commissioner, thank you.

PO Thank you, Mr SUTHERLAND. You are excused.