



NEW ZEALAND POLICE
REPORT FORM

SUBJECT: Honourable John BANKS

ADDRESS:

TEXT: FILE NO; 120427/9334 -
BREACH OF LOCAL ELECTORAL ACT 2001

EXECUTIVE SUMMARY

1. The attached report relates to the investigation into the Honourable John BANKS to assess any criminal liability for alleged irregularities in respect of electoral funding donations pursuant to Section 109[1] of the Local Electoral Act 2001.
2. The Honourable John BANKS in 2010 was the Mayor of Auckland City and ran for election in the 2010 Super City Mayoral Campaign. In becoming a candidate for the election Mr BANKS imposed on himself a number of statutory requirements pursuant to the Local Electoral Act 2001. Specifically the requirement to furnish a return of electoral expenses and electoral donations within 55 days after the official declaration of the election results.
3. Mr BANKS lost the election to Mr BROWN, and the required return for the BANKS campaign was signed by John BANKS on 9 December 2010 and submitted to the Electoral Office.
4. On 27 April 2012, Auckland Police received a formal complaint from the Auckland City Council Electoral Officer, Mr Bruce THOMAS, as they had received a complaint in respect to expenses and donations from the Mr Trevor MALLARD MP for Labour in respect to the 2010 Mayoral election. Mr MALLARD alleges that Mr BANKS breached Section 134 of the Local Electoral Act.

5. Police received two further complaints; from Ms Penny BRIGHT and Ms Lisa PRAGAR, both known Political activists in the Auckland City Area.
6. File 120427/9334 was assigned and a Terms of Reference for the investigation was supplied by Detective Superintendent Peter READ.
7. The investigation specifically related to:
 - 7.1 \$50,000 donation from Mr Kim Dotcom paid by way of two \$25,000 cheques under the account of Megastuff Ltd.
 - 7.2 A donation from Sky City Casino Ltd for \$15,000.
 - 7.3 At \$15,690 donation for advertising listed as Anonymous donation and as an expense in the expense section of The Return.

INVESTIGATION

8. Investigation reveals that John BANKS was a candidate for the 2010 Election for the Super City Mayoralty. Mr BANKS compiled a team of supporters known as "Team Banksie".
9. Mr BANKS had a number of volunteers on the team and one paid member, [REDACTED]

Mr Dale OFSOSKE, Electoral Officer 2010, Auckland City Mayoral Campaign:

10. Mr OFSOSKE was the Electoral Officer for the Mayoral campaign and confirms that Mr BANKS was a candidate for the campaign and paid the appropriate fee. OFSOSKE describes his office receipting The Return of Electoral Expenses and Electoral Donations ("The Form") within the 55 day time frame set by statute. OFSOSKE recognises the signature on the form as that of belonging to BANKS.

Mr Nigel MORRISON, Managing Director, Chief Executive Officer Sky City:

11. Describes his relationship to Sky City and that on 24 May 2010 having given a donation Mr BROWN (candidate and main opposition to Mr BANKS) of \$15,000 they met with BANKS at the offices of Sky City and handed him a cheque for \$15,000.

12. Witnesses associated to Sky City, Mr Peter TREACY, Ms Anna McKINNON will corroborate the circumstances around the arranging of the meeting and the circumstances in making the \$15,000 donation to BANKS.

[REDACTED] ex Manager [REDACTED]
[REDACTED] Sky City:

13. Describes his role at Sky City and describe a generic phone call with BANKS' treasurer [REDACTED] where a discussion was had in regards to the donation but [REDACTED] could not give any specifics as to what was said in respect of that conversation. [REDACTED] alleges the conversation related to anonymity.

Mr Wayne Phillip TEMPARO, Security Consultant Kim DOTCOM:

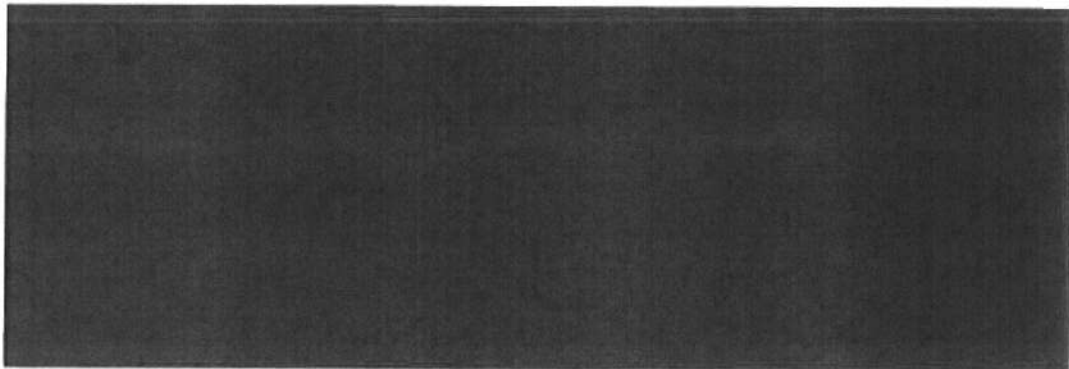
14. Describes his role working for Kim DOTCOM and describe making at least two appointments for John BANKS to visit DOTCOM at his Albany address. The significant meeting was on about 9 June 2010 at the

Coatesville address where he alleges BANKS spoke of the trouble getting funds for his campaign and as a result DOTCOM offered to donate \$50,000. TEMPARO alleges BANKS asked for the cheques to be split into two. TEMPORO arranged the Chief Financial Officer for DOTCOM to issue two cheques which were signed by DOTCOM. TEMPARO describes some of the history between him and BANKS.

Mr Grant McKAVANAGH: Ex Financial Officer for Megastuff Ltd:

15. Describes being directed on about 9 June 2010 to write out two cheques for Team Banksie of \$25,000 each. That he subsequently took the cheques and believes that he posted them from Queenstown over the long weekend. Enquiries show that the two cheques were dropped in a drop box at the [REDACTED] Branch on 14 June 2010 before being deposited into the Team Banksie bank account.

Mrs Moana DOTCOM, wife of Kim DOTCOM:



Mr Kim DOTCOM, owner of Megauploads/Megastuff Ltd:

17. Describes how he met BANKS and details the meeting on 9 June 2010 where he offered BANKS a \$50,000 donation. DOTCOM will describe how BANKS asked for the cheques to be split into two \$25,000 donations and alleges BANKS needed to keep them anonymous so he could "help" DOTCOM. BANKS did not elaborate as to what he meant by help.

18. Mr DOTCOM describes getting a phone call from BANKS where BANKS confirmed receiving the two \$25,000 cheques and thanked him. DOTCOM details his relationship with BANKS post the election.

Mr Gregory Brett TOWERS, Commercial lawyer for DOTCOM partners Simpson GRIERSON:

19. Mr TOWERS is a commercial lawyer for Kim DOTCOM. TOWERS had legal privilege waived by DOTCOM to detail a phone call with BANKS in February 2012. TOWERS describes that DOTCOM had been arrested and was on remand at Mt Eden and that he had rung BANKS to seek assistance in getting medical attention for his client. TOWERS describes making a minute on his file where he notes that BANKS declined to assist because it could backfire on DOTCOM considering the support he got for the Mayoral campaign.

[REDACTED] Treasurer for John BANKS Mayoral campaign:

20. [REDACTED] describes his previous experience/relationship in working for BANKS as volunteer over four elections. He will describe his understanding of what he believes to be an anonymous donation and the recording of the three donations referred to in the complaint. He will detail why the donations were listed as anonymous in The Return to the Electoral Office and that he prepared the form prior to handing it to BANKS. BANKS asked him if it was true and correct and then signed it after [REDACTED] confirmed that it was.

21. [REDACTED] states to Police that he was solely responsible for preparing the form and deciding what was and what was not anonymous in respect to recording donations. [REDACTED] describes that they were over cautious and even collated multiple donations under one total. [REDACTED] will describe the processes around collecting donations and how he recorded the same.

[REDACTED] - Volunteer fundraiser for John BANKS:

22. [REDACTED]

TEAM BANKSIE: Volunteers:

23. [REDACTED]

24. [REDACTED]

[REDACTED] : Donor:

25. [REDACTED] describes how BANKS solicited his help from him so he donated \$15,000 worth of advertising. The amount was discounted by the Radio Bureau because of the discount rate he got [REDACTED]. [REDACTED] The true amount paid was \$11,478.14, inclusive of GST, but was recorded in The Return as \$15690.00 as an anonymous donation and as an advertising expense.

[REDACTED]

26. [REDACTED]

BACKGROUND ENQUIRIES DONATED

27. A number of the anonymous deposits were queried as to show course of business but they did not offer any direct evidence to the allegations.

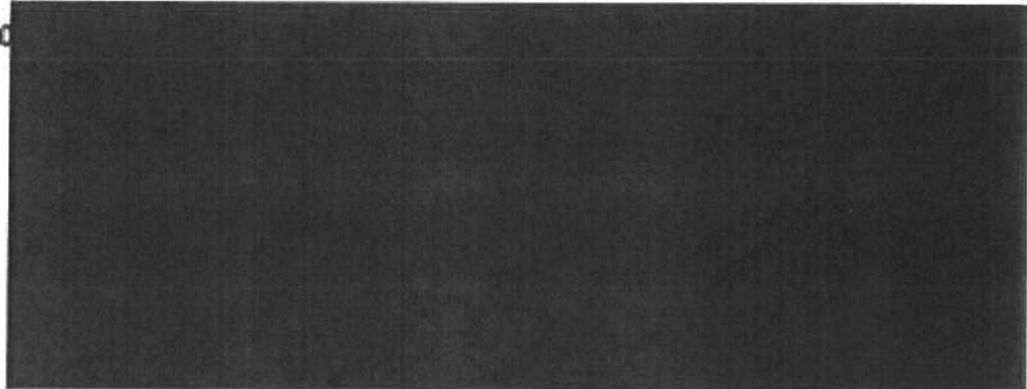
EXHIBITS

28. A number of documentary exhibits were collated on the file to assist in the assessing of the total amounts of donations, where they came from, and their significance to it.

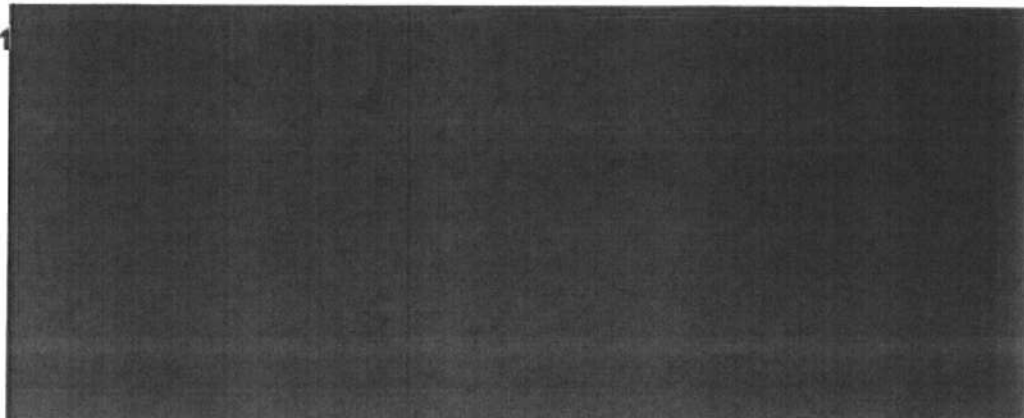
BANKS INTERVIEW:

29. Mr BANKS was interviewed under caution on 15 June 2012 with a three hour interview by Detective Sergeant Carl LEWENS and Detective Adam BICKNELL (level 3). Mr David JONES QC, acting for BANKS was present.

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33.

34.

LAW:

35. The relative sections of the law are detailed in the report, specifically the offence of **Section 134 Local Electoral Act 2001 *False return***

36. Mr David JONES Q.C. Barrister acting for John BANKS has supplied a set of submissions in regards to his assessment of any liability.

37. The analysis on the file show that the Police believe there is an offence for 134[1] because of the way the Act interprets Electoral Expenses and Donations and the requirement to submit a return for both under the Act. Thereby we conclude that there is a requirement to record accurately the donation section on the return and by failing to do this could result in a candidate being prosecuted if the elements of Section 134[1] or 134 [2] were satisfied.

ANALYSIS:

38. Further analysis in respect of the evidence collected in the investigation established that the return was wrong in content as the donations for Sky City, Dotcom and [REDACTED] should not have been recorded as anonymous. Additionally the \$15,690 donation by [REDACTED] and the advertising expense should have been recorded as \$11,478.14, inclusive of GST.

39. Police concluded that this would satisfy the requirement of "False" in respect to The Return, but believe that the circumstances do not reach the Evidential Sufficiency Test (assessed against the Prosecution Guidelines) in that Police cannot prove that Mr BANKS knowingly signed The Return in respect to section 134 (1) of the Act.

40. Police conclude that the elements of section 134 (2) are met , but that Police are prevented from charging anyone because of section 14 of The Summary Proceeding Act 1957, in that it falls well outside the 6 month time period for information's to be laid for summary offences.

CONCLUSIONS:

41. The allegations do not meet the evidential threshold in respect to section 134 (1) of the Local Electoral Act 2001.

RECOMMENDATIONS:

42. That the file and my report be reviewed by Legal Section.

43. That should Legal section concur with my findings then the three complainants should be written to and advised of the outcome prior to any media announcement of the outcome of the investigation.

44. That on any O.I.A. request, the information to be released is assessed by Legal Section prior to release to ensure we are not breaching the privacy of individuals in respect to financial details and contributions.

A handwritten signature in black ink, appearing to read 'M. Benefield', with a stylized, cursive script.

Mark BENEFIELD
Detective Inspector
Criminal Investigation Branch
AUCKLAND CITY

03 July 2012

Bruce Thomas
Electoral Officer
Auckland Council
Private Bag 92300
AUCKLAND 1342

30 April 2012

Re: Further complaint regarding Hon. John Banks' mayoral election return

Dear Mr Thomas,

Further to my letter of 23 April and your reply of the 27th I am writing to request that you investigate another report that Hon. John Archibald Banks, CNZM QSO has submitted a false donation return subsequent to the previous Auckland Council mayoral election.

I refer you to report of Friday 27 April on Campbell Live and Saturday 28 April in the New Zealand Herald.

These reports make it clear that Mr Banks solicited a donation, asked for it to be delivered in a particular way and thanked Mr Dotcom when he received it. The donations cannot be anonymous.

Mr Banks appears to be at fault knowingly not declaring the original donation, transmitting a false return and subsequently for not admitting to and rectifying the mistake. The inference is that this was done to hide Mr Banks' link to Mr Dotcom.

The Local Electoral Act 2001 states that "Every candidate commits an offence who transmits a return of electoral expenses knowing that it is false in any material particular, and is liable on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$10,000".

As this matter is of high public interest, I ask that you consider investigating it with urgency and refer it to the Police.

Yours sincerely



Trevor Mallard

Bruce Thomas
Electoral Officer
Auckland Council
Private Bag 92300
AUCKLAND 1142

23 April 2012

Re: Complaint regarding Hon. John Banks' mayoral election return

Dear Mr Thomas,

I am writing to request that you investigate reports that Hon. John Archibald Banks, CNZIM QSO has submitted a false donation return subsequent to the previous Auckland Council mayoral election.

A New Zealand Herald report from 13 December 2010 states that: "Mr Brown's financial returns include a contribution of \$15,000 from the company among total donations to his cause of \$581,900. SkyCity said yesterday it made an identical campaign contribution to former Auckland City Mayor John Banks - who lost the Super City leadership race despite having \$542,957 at his disposal - although it did not show up as a donor in his returns."

I understand that this report is correct and no donation from SkyCity is listed in Mr Banks' return. I also understand SkyCity has a policy of ensuring donations are made in public and that Mr Banks' campaign would have been aware of this requirement. However, subsequent to recent media enquiries, a spokeswoman for Mr Banks stated that, "All donations received for Mr Banks' Auckland mayoralty campaign are listed on the public record."

These two positions cannot be reconciled. Mr Banks appears to be at fault knowingly not declaring the original donation, transmitting a false return and subsequently for not admitting to and rectifying the mistake. The inference is that this was done to hide Mr Banks' link to SkyCity. I also understand his return records a donation of "Anonymous - radio ads", which seems implausible, given you would have to coordinate with the donor over the production and completion of the advertisements.

The Local Electoral Act 2001 states that "Every candidate commits an offence who transmits a return of electoral expenses knowing that it is false in any material particular, and is liable on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$10,000".

As this matter is of high public interest, I ask that you consider investigating it with urgency.

Yours sincerely


Trevor Mallard

BENEFIELD, Mark

From: Trevor Mallard [Trevor.Mallard@Parliament.govt.nz]
Sent: Monday, 30 April 2012 13:37
To: BENEFIELD, Mark
Subject: Letter attached
Attachments: 30 April 2012 letter to Bruce Thomas.pdf

File 120427/9334

Thank you for your email of 27 April.

Please find attached a copy of a further complaint to Auckland Council with regard to Hon John Banks' false return.

Can you please add this to the file originally referred to you relating to Sky City and radio advertisement donations.

I am assuming that you will deal with these as one matter given it is a single declaration.

if you need further material please do not hesitate to contact me.

Trevor Mallard

+64 21 461 671

redalert.org.nz | [facebook.com/trevor.mallard1](https://www.facebook.com/trevor.mallard1) | labour.org.nz/parliament | twitter.com/trevormallard



27 April 2012

Official Information Request No. 9000115547
(Please quote this in any correspondence)

Trevor Mallard
MP for Hutt South
trevor.mallard@parliament.govt.nz

Dear Sir

Complaint regarding Hon John Banks' mayoral election return

I refer to your letter of 23 April 2012 and email of 26 April 2012 lodging a complaint to the accuracy of John Banks' 2010 Auckland Council mayoral electoral expense and donations return.

I have looked into the matter and advise as follows, firstly on what the legislation states and secondly comments relating to your concerns:

1. Section 103(1) of the Local Electoral Act 2001 (LEA) requires all candidates to complete and submit a prescribed electoral expenses and donations return within 55 days of the official declaration of election results:
 - "(1) Within 55 days after the day on which the successful candidates at any election are declared to be elected, every candidate at the election must transmit to the electoral officer a return setting out—
 - (a) the candidate's electoral expenses; and
 - (b) the name and address of each person who made an electoral donation to the candidate and the amount of each electoral donation; and
 - (c) if an electoral donation of money or of the equivalent of money is made to the candidate anonymously and the amount of that donation exceeds \$1,000,—
 - (i) the amount of that donation; and
 - (ii) the fact that it has been received anonymously."
2. Section 104 of the LEA defines what an electoral donation is:

"electoral donation, in relation to a candidate at an election,—

 - (a) means a donation (whether of money or the equivalent of money or of goods or services or of a combination of those things) of a sum or value of more than \$1,000 (such amount being inclusive of any goods and services tax and of a series of donations made by or on behalf of any one person that aggregate more than \$1,000) made to the candidate, or to any person on the candidate's behalf, for use by or on behalf of the candidate in the campaign for his or her election; and

Bruce Thomas
Electoral Officer
Auckland Council;
Private Bag 92300
AUCKLAND 1142

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The Local Electoral Act 2001 states that "Every candidate commits an offence who transmits a return of electoral expenses knowing that it is false in any material particular, and is liable on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$10,000".

As this matter is of high public interest, I ask that you consider investigating it with urgency and refer it to the Police.

Yours sincerely



Trevor Mallard

Bruce Thomas
Electoral Officer
Auckland Council;
Private Bag 92800
AUCKLAND 1142

29 April 2012

Re: Complaint regarding Hon. John Banks' mayoral election return

Dear Mr Thomas,

I am writing to request that you investigate reports that Hon. John Archibald Banks, CH2M QSO has submitted a false donation return subsequent to the previous Auckland Council mayoral election.

A New Zealand Herald report from 13 December 2010 states that: "Mr Brown's financial returns include a contribution of \$15,000 from the company among total donations to his cause of \$581,800. SkyCity said yesterday it made an identical campaign contribution to former Auckland City Mayor John Banks - who lost the Super City leadership race despite having \$945,937 at his disposal - although it did not show up as a donor in his returns."

I understand that this report is correct and no donation from SkyCity is listed in Mr Banks' return. I also understand SkyCity has a policy of ensuring donations are made in public and that Mr Banks' campaign would have been aware of this requirement. However, subsequent to recent media enquiries, a spokeswoman for Mr Banks stated that, "All donations received for Mr Banks' Auckland mayoralty campaign are listed on the public record."

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27 April 2012

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(Please quote this in any correspondence)

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BENEFIELD, Mark

From: Bruce Thomas [REDACTED]
Sent: Friday, 27 April 2012 12:35
To: BENEFIELD, Mark
Cc: Dale Ofoske (External)
Subject: FW: Complaint under Section 138 of the Local Electoral Act 2001 (LEA)
Attachments: SKMBT_C350012042711100.pdf

Dear Mark Benefield,

Please note the attached letter to Trevor Maillard regarding a complaint he made in relation to a 2010 Auckland Council mayoral electoral expenses and donations return submitted by John Banks. In accordance with Section 138 of the Act I am reporting the complaint to the NZ Police.

As advised on the phone, Dale Ofoske was the Electoral Officer for the 2010 elections. He will be able to assist you as well.

Thanks

Bruce Thomas
Electoral Officer / Public Information Manager

Auckland Council | Level 16 | Civic Administration Building | 1 Greys Avenue | Auckland

Visit our website: www.aucklandcouncil.govt.nz



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BENEFIELD, Mark

From: Bruce Thomas [REDACTED]
Sent: Tuesday, 1 May 2012 13:52
To: BENEFIELD, Mark
Cc: Bruce Thomas
Subject: FW: Letter
Attachments: 30 April 2012 letter to Bruce Thomas.pdf

Mark, please find attached a copy of the a complaint from Trevor Mallard. This is referred to the NZ police for their investigation.

. Bruce Thomas
Electoral Officer | Public Information Manager

Auckland Council | Level 16 | Civic Administration Building | 1 Greys Avenue | Auckland
[REDACTED]

Visit our website: www.aucklandcouncil.govt.nz

From: Carlie Bromley [REDACTED]
Sent: Monday, 30 April 2012 1:33 p.m.
To: Bruce Thomas
Subject: Letter

Good afternoon

Please find attached a further letter from Trevor Mallard. A hard copy is in the mail.

Kind regards

Carlie

Carlie Bromley
Office of Trevor Mallard
MP for Hutt South
[REDACTED]

redalert.org.nz | facebook.com/trevor.mallard1 | labour.org.nz | twitter.com/irevormallard



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BENEFIELD, Mark

From: Bruce Thomas [REDACTED]
Sent: Tuesday, 1 May 2012 08:47
To: BENEFIELD, Mark
Subject: Further complaint under the electoral act.

Hi Mark, we have now received a complaint under the Electoral Act from Trevor Meilands regarding the Kim Dot.Com allegations. Have the police received a complaint direct?

Bruce Thomas
Electoral Officer | Public Information Manager

Auckland Council | Level 16 | Civic Administration Building | 1 Grey's Avenue | Auckland
PO: [REDACTED]
Visit our website: www.aucklandcouncil.govt.nz



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BENEFIELD, Mark

From: Dale Ofoske [redacted]
Sent: Friday, 27 April 2012 14:41
To: BENEFIELD, Mark
Cc: Bruce Thomas
Subject: RE: Complaint under Section 138 of the Local Electoral Act 2001(LEA)

Hi Mark

The information I have regarding John Banks campaign for the 2010 Auckland Council mayoralty is:

Campaign Manager was [redacted] - no phone or mobile numbers were given. On a 'John Banks for Mayor' letterhead the only address given is Private Bag 93516 Takapuna.

All election advertising is required to be authorized by the candidate or the candidate's agent, with a physical address. All John Banks advertising was authorized by his agent [redacted]
[redacted]

[redacted]
[redacted]

Let me know if I can be of any further assistance.

Regards, Dale

Dale Ofoske
Electoral Officer/Director
Independent Election Services Ltd

Ground Floor, Stedlcoe House, 24 Wellesley Street, Auckland, New Zealand
PO Box 5135, Wellesley Street, Auckland 1141, New Zealand
[redacted]

www.electionservices.org.nz

From: Bruce Thomas [mailto:[redacted]]
Sent: Friday, 27 April 2012 2:09 p.m.
To: Dale Ofoske
Subject: FW: Complaint under Section 138 of the Local Electoral Act 2001(LEA)

Dale, can you answer this please

From: BENEFIELD, Mark [mailto:Mark.Benefield@police.govt.nz]
Sent: Friday, 27 April 2012 1:22 p.m.
To: Bruce Thomas
Subject: RE: Complaint under Section 138 of the Local Electoral Act 2001(LEA)

Hi Bruce,

could you advise if Mr BANKS had a campaign office or from what address he registered his campaign from? Once I have those details I will formally record the complaint and provide you and Mr MALLARD with a file number for referencing.

Regards

COMPLAINT TO POLICE UNDER s.138 (2) LOCAL ELECTORAL ACT 2001

DATE: 27 April 2012

GROUND FOR COMPLAINT:

The alleged failure of 2010 Auckland Mayoral candidate John Banks to declare a \$15,000 donation from Sky City, as per statutory requirements of s.109 (1) (b) of the Local Electoral Act 2001.

COMPLAINANTS: Penny Bright
Lisa Prager ..

BACKGROUND TO COMPLAINT:

On Tuesday 10 April 2012, the complainants, both former Auckland Mayoral candidates, Lisa Prager (2007) and Penny Bright (2010) went to the offices of Independent Electoral Services Ltd, and perused the electoral returns of 2010 Auckland Mayoral candidates John Banks and Len Brown.

CONFIRMED:

John Banks did not declare a \$15,000 donation from Sky City.
(Len Brown did declare a \$15,000 donation from Sky City.)

STATUTORY DUTIES OF CANDIDATES ARISING FROM LOCAL ELECTRAL ACT 2001

The statutory duties arising from the Local Electoral Act 2001 are as follows:

109 Return of electoral expenses

- (1) Within 55 days after the day on which the successful candidates at any election are declared to be elected, every candidate at the election must transmit to the electoral officer a return setting out—
 - (a) the candidate's electoral expenses; and
 - (b) the name and address of each person who made an electoral donation to the candidate and the amount of each electoral donation;
and
 - (c) if an electoral donation of money or of the equivalent of money is made to the candidate anonymously and the amount of that donation exceeds \$1,000,—
 - (i) the amount of that donation; and
 - (ii) the fact that it has been received anonymously.

(2) Every return under subsection (1) must be in the form prescribed in Schedule 2 or to similar effect.

<http://www.legislation.govt.nz/act/public/2001/0035/latest/DLM494759.html>

Part 1 Preliminary provisions

5 Interpretation

- (1) In this Act, unless the context otherwise requires,—
anonymous, in relation to an electoral donation (as defined in section 104),
means a donation that is made in such a way that the candidate concerned does
not know who made the donation.

<http://www.legislation.govt.nz/act/public/2001/0035/latest/DLM93310.html>

.....

THE ALLEGED OFFENCE:

134 False return

- (1) Every candidate commits an offence who transmits a return of electoral expenses knowing that it is false in any material particular, and is liable on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$10,000.
- (2) Every candidate commits an offence and is liable on summary conviction to a fine not exceeding \$5,000 who transmits a return of electoral expenses that is false in any material particular unless the candidate proves—
 - (a) that he or she had no intention to mis-state or conceal the facts; and
 - (b) that he or she took all reasonable steps to ensure that the information was accurate.
 - <http://www.legislation.govt.nz/act/public/2001/0035/latest/DLM94799.html>

DUTY FOR POLICE TO TAKE ACTION IN RESPECT OF OFFENCES:

138 Duty to take action in respect of offences

- (1) If the electoral officer at any election or poll—
 - (a) receives a written complaint that an offence under this Part has been committed; or
 - (b) believes for any other reason that an offence under this Part may have been committed,—the electoral officer must report that matter to the Police together with the results of any enquiries made by the electoral officer that he or she considers appropriate.

(2) Subsection (1) does not prevent any person from reporting an alleged offence to the Police.

PUBLIC INTEREST:

http://www.nzherald.co.nz/act-party/news/article.cfm?o_id=359&objectid=10801742

NZH article 27 April 2012:

....

Banks did not reveal SkyCity as big donor

By Claire Trevett

5:30 AM Friday Apr 27, 2012

Labour MP Trevor Mallard has lodged an official complaint about Act leader John Banks failing to disclose a \$15,000 donation was from SkyCity during his 2010 Auckland mayoralty campaign.

Mr Mallard lodged the complaint with the Auckland Council electoral officer this week. He also asked the electoral officer to scrutinise "anonymous" donations of radio advertising Mr Banks had included in his return. SkyCity gave \$15,000 each to Len Brown, now mayor, and Mr Banks, his rival, during that campaign.

Although Mr Brown's donation return listed SkyCity as a donor, Mr Banks' listed an anonymous donation of \$15,000. It did not mention SkyCity.

The penalty for knowingly filing a false return is up to two years in prison or a fine of up to \$10,000.

There is a lesser penalty of a \$3000 fine if the candidate did not know it was false. MPs convicted of crimes with a penalty of two years or more can not remain in Parliament.

However, Mr Banks said he was not concerned about the complaint, dismissing it as Mr Mallard "up to his old timeless tricks".

He said he had not known at the time that the donation was from SkyCity and his donations return was accurate as at the date he signed it.

"I signed the document at the said time to the best of my knowledge."

Although SkyCity had subsequently publicly confirmed donations to both candidates he had not considered amending his return or asked further questions of his campaign team.

Asked how it was that Mayor Brown had known about the SkyCity donation yet he had not, the Act leader said his campaign accountants had dealt with the finances for his campaign and he had based his return on the information they gave him.

Asked if it was possible they had known the donation was from SkyCity, he said it was.

Auckland Council's electoral officer, Bruce Thomas, said he would consider the complaint and decide whether to refer it to police.

By Claire Trevett

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BENEFIELD, Mark

From: Penny Bright [waterpressure@gmail.com]
Sent: Monday, 30 April 2012 12:52
To: BENEFIELD, Mark
Cc: Penny Bright; Lisa Prager
Subject: OPEN LETTER: Further written complaint to Detective Inspector Mark Benefield (Re File 120427/9334) from Penny Bright and Lisa Prager alleging John Banks knowingly filed a false electoral return re: \$50,000 donated from Kim Dotcom

30 April 2012

Detective Inspector Mark Benefield,
Field Crime Manager Auckland City District

RE: File 120427/9334

Dear Detective Inspector Mark Benefield,

FURTHER COMPLAINT TO POLICE UNDER s.138 (2) LOCAL ELECTORAL ACT 2001

COMPLAINANTS: Penny Bright
Lisa Prager ..

BACKGROUND:

On Friday 27 April 2012, you formally acknowledged our complaint under the Local Electoral Act 2001 (LEA),
'in respect to the 2010 Mayoral Election and allegation of a false return made by the now Hon John BANKS
in respect of his returns under section 109 LEA'.

You advised that at this point in time, that you would be our 'point of contact' and that for future reference
'File 120427/9334 refers'.

This morning (Monday 30 April 2012), I rang you to advise that at 2pm both myself, Penny Bright and
Lisa Prager intended to come to Auckland Central Police Station to file a further written complaint,
alleging John Banks knowingly filed a false electoral return regarding \$50,000 allegedly donated by Kim Dotcom, about which there has been considerable recent publicity.

The basis of this allegation is as has been reported on the front page of the New Zealand Herald,
Saturday
26 April 2012:

You advised that it would not be necessary to present this complaint in person, and that it would suffice to send this further complaint by email.

You also advised that the status of a complaint to Police which had a 'file number' meant that it was awaiting to be assigned to someone to investigate.

GROUNDS FOR THIS FURTHER COMPLAINT:

The alleged failure of 2010 Auckland Mayoral candidate John Banks to declare a \$50,000 donation, which was allegedly split into two \$25,000 cheques, (allegedly at the request of John Banks); made out in the names of Kim Dotcom (or the name of his company Megastuff Ltd), and the other allegedly made out in the name Mr Wayne Tempero, (Kim Dotcom's bodyguard).

That as this \$50,000 donation was made in such a way that John Banks did know who made it - it was NOT 'anonymous' and should have been declared, in a proper way, as per statutory requirements of s.109 (1) (b) of the Local Electoral Act 2001.

109 Return of electoral expenses

(1) Within 55 days after the day on which the successful candidates at any election are declared to be elected, every candidate at the election must transmit to the electoral officer a return setting out—

(a) the candidate's electoral expenses; and

(b) the name and address of each person who made an electoral donation to the candidate and the amount of each electoral donation; ...

STATUTORY DUTIES OF CANDIDATES ARISING FROM LOCAL ELECTRAL ACT 2001

The statutory duties arising from the Local Electoral Act 2001 are as follows:

109 Return of electoral expenses

(1) Within 55 days after the day on which the successful candidates at any election are declared to be elected, every candidate at the election must transmit to the electoral officer a return setting out—

(a) the candidate's electoral expenses; and

(b) the name and address of each person who made an electoral donation to the candidate and the amount of each electoral donation; and

(c) if an electoral donation of money or of the equivalent of money is made to the candidate anonymously and the amount

BENEFIELD, Mark

From: Lisa Prager [REDACTED]
Sent: Monday, 30 April 2012 16:27
To: BENEFIELD, Mark
Subject: Re: Complaint under Section 138 of the Local Electoral Act 2001(LEA)

Thank you Mark,

As you know we have now placed a second complaint about donations from Kim.com as well as the Skycity one. (see info from Penny Bright)

I look forward to a swift and in-depth investigation as public interest is high in this case.

Regards
Lisa Prager
[REDACTED]

On 27/04/2012, at 3:55 PM, BENEFIELD, Mark wrote:

This email is to formally acknowledge your complaint under the Local Electoral Act 2001(LEA) in respect to the 2010 Mayoral Election and allegation of a false return made by the now Hon John BANKS in respect of his returns under section 109 LEA.

For future reference File 120427/9334 refers.

At this point in time I will be your point of contact.

Regards

Detective Inspector Mark Benefield
Field Crime Manager Auckland City District
[REDACTED]

=====

WARNING

The information contained in this email message is intended for the addressee only and may contain privileged information. It may also be subject to the provisions of section 50 of the Policing Act 2008, which creates an offence to have unlawful possession of Police property. If you are not the intended recipient of this message or have received this message in error, you must not peruse, use, distribute or copy this message or any of its contents.

Also note, the views expressed in this message may not necessarily reflect those of the New Zealand Police. If you have received this message in error, please email or telephone the sender immediately



NZ POLICE
WITNESS STATEMENT
Statement must be disclosed
- 1 of 6 -

II-WS 03/12

IR No.

Statement of: <u>Dale Matthew OFSOSKE</u>	DOB: 
Statement taken by: <u>Dan PHILLIPS</u>	
Date: <u>05/05/2012</u>	Time: <u>9.00 AM</u>

He states

Between 1985 and 2010 I was the Electoral Officer for the Auckland City Council, as well as seven of the eight other councils that now make up the new Auckland Council.

In 2010 I was appointed the Electoral Officer for the elections to form the new Auckland Council. This essentially occurred because of my experience from holding that position in previous councils.

After the 2010 elections the Auckland Council appointed an in-house staff member to be the Electoral Officer and I took up the position of Deputy Electoral Officer.

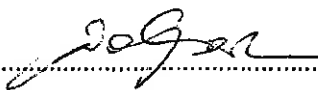
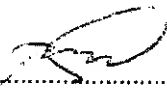
I am also a Director of Independent Election Services Ltd. We are independent of the Auckland Council and provide election related services. We do this on a contractual basis.

The position of Electoral Officer which I held in the 2010 Auckland Council elections is a mandated position under the Local Election Act 2001.

In 2010 every council was required to have an Electoral Officer and that person was responsible for conducting the elections in line with legislative requirements.

The Electoral Officer is independent and can not be directed by either the Council or Government. Their responsibilities are laid out in the Local Electoral Act 2001 and they are responsible for all facets of the local elections.

The actions of the Electoral Officer and the running of the election can be challenged through the courts and they are therefore accountable in that manner. Any person can seek a judicial review to

Signature:  Signature witnessed by: 

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NZ POLICE
WITNESS STATEMENT CONTINUED

II-WS 03/12

- 2 of 3 -

IR No.

Statement of: Dale Matthew OFSOSKE

make sure that the Electoral Officer has conducted the election or parts of it in accordance with the relevant legislation.

The Electoral Officer does not set any of the rules in relation to an election, their role is to make sure that the rules laid out in legislation are followed. Legislation sets out how an election is to be conducted and we generate a timetable for the election based on that process.

In the case of the 2010 Auckland Council Election the main dates were as follows:

23 July 2010 - Nominations / open roll open for inspection.

20 August 2010 - Nomination close.

17 September 2010 - 22 September 2010 - Delivery of voting documents.

9 October 2010 - Election day.

14 October 2010 - Declaration of results / Public notice of results.

Mid December - Return of election expenses and donations forms.

I have provided Detective Phillips with a full list of the relevant dates for the 2010 Auckland Council elections.

Independent Election Services Ltd is a private company that acts as a vehicle to assist me undertaking my duties as the Electoral Officer. The position of Electoral Officer is what is referred to in legislation and whoever holds that position is personally responsible for discharging it's legislated duties. There are serious legal sanctions for failure on the part of a person holding the position of Electoral Officer for not discharging their duties lawfully.

Signature: [Signature] Signature witnessed by: [Signature]

P354



NZ POLICE
WITNESS STATEMENT CONTINUED

II-WS 09/12

- 3 of 6 -

IR No.

Statement of: Dale Matthew OFSOSKE

A potential mayoral candidate in the 2010 Auckland Council election registered their interest by contacting our office and obtaining a 'Nomination Paper'. They could do this by collecting the form at our office or by requesting that we send it out to them.

The Nomination Paper is then completed and signed by the prospective candidate and must include the details and signatures of two eligible nominating electors.

The completed Nomination Paper along with a \$200.00 deposit then needed to be in the hands of the Electoral Officer no later than 12 noon on Friday the 20th of August 2010.

Included with the Nomination Paper we provided the potential candidates with a 'Candidate Information Booklet.' This booklet is not required by legislation, but we have found they are valuable and sought after resource for the candidates as they set out everything they need to know when running for mayoral office, including all legislative requirements. There is a section that covers all the legislation and procedures in relation to 'Election Expenses.'

I have provided Detective Phillips with a copy of the 'Candidate Information Booklet.'

Along with the Nomination Paper we also provide candidates with a blank 'Return of Electoral Expenses and Electoral Donations' form. This form requires Mayoral Candidates to list the nature and cost of any expenses they accumulated from their campaign, as well as the amount and source of any donations they received for that campaign.

The full requirements in respect of returns is spelt out in sections 104 - 114 of the Local Electoral Act 2001. These sections outline the rules in relation to returns and the onus is on candidates to be aware of and follow these legislative requirements. They are listed in full in the 'Candidate Information Booklet' provided to all applicants.

'Return of Electoral Expenses and Electoral Donations' forms are returned to our office either by post or by hand, or in the case of Political Parties a representative may bring a number in together at the same time.

Signature: [Signature] Signature witnessed by: [Signature]



NZ POLICE
WITNESS STATEMENT CONTINUED

BWS 03/12

- 4 of 6 -

IR No.

Statement of: Dale Matthew OFSOSKE

Legislation requires the candidates to return those forms within 55 days after of the declaration of results.

When we receive the 'Return of Electoral Expenses and Electoral Donations' forms they are recorded on an Access spreadsheet and then filed within our office. They are required by legislation to be available for public inspection for a period of 7 years.

I have provided Detective Phillips with a copy of our spreadsheet listing Candidate Expense Returns and Refunds for the 2010 Auckland Council election.

No audit of those returns is completed by our office after they are received from the candidates. There is no legislative requirement of the Electoral officer to do so and that is why they are instead able to be inspected by anyone for a period to of 7 years. This allows anyone to check whether they meet the legislative requirements.

We do conduct audits as per section 109 of the Local Electoral Act 2001 to make sure that the 'Return of Electoral Expenses and Electoral Donations' forms have been completed in the correct format.

We also confirm that all candidates have completed their 'Return of Electoral Expenses and Electoral Donations' forms within the specified 55 day period and if they do not we initially send them a letter reminding them of this requirement and if they still fail to return those forms we refer the matter to the Police.

When the 'Return of Electoral Expenses and Electoral Donations' forms arrive at our office they are received by [REDACTED] our Office Manager. They are then put into files and then added to our filing system within the office.

We have four full time staff and they all have access to those files which until recently have been stored openly in the office. I am not aware of there ever having been a case where any items or information have gone missing in the office from these files.

Signature: [Signature] Signature witnessed by: [Signature]

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NZ POLICE
WITNESS STATEMENT CONTINUED

IR-WS 03/12

- 5 of 6 -

IR No.

Statement of: Dale Matthew OFSOSKE

Under section 110 of the Local Electoral Act 2001 any person may view those returns. When they do so it occurs in Raewyn's presence and they are only allowed to make notes. They are not allowed to remove or copy any of the documents.

We do not complete a final report to government or the election office as we are not responsible to them. As Electoral Officer I am bound to follow the rules laid out in legislation and am answerable via judicial review only.

Signatures made by applicants on the Nomination Papers and the 'Return of Electoral Expenses and Electoral Donations' are not witnessed by myself or my staff. We take the completed forms on face value and the onus is on the person completing the form to understand their legislated responsibilities and make sure the forms are accurately completed.

We do complete checks to make sure that the people nominating the candidate on the Nomination Paper are eligible to do so. This is done primarily through the electoral roll.

We also make sure that photos are attached, the nomination is receipted and we then enter the candidate details into access.

In relation to the Nomination Paper for the 2010 Auckland Council election completed by John Archibald Banks I can confirm that I recognise his handwriting and signature from having received numerous other documents completed by him over the course of my time as an Electoral Officer.

I also recognise his handwriting and signature on the declaration of the 'Return of Electoral Expenses and Electoral Donations' forms for the 2010 Auckland Council election.

I do not however recognise the handwriting of the person who has itemised the individual expenses and donations on that form. It is different handwriting from what I recognise as belonging to John Banks.

Signature:  Signature witnessed by: 



NZ POLICE
WITNESS STATEMENT CONTINUED

II-WS 03/12

- 6 of 6 -

IR No.

Statement of: Dale Matthew OFSOSKE

My office supplied to candidates for the 2010 Auckland Council Election the previously mentioned Candidate Information Booklet. Information in regards to the candidate's responsibilities is also outlined on both the 'Return of Electoral Expenses and Electoral Donations' form and the Nomination Paper.

We also conducted 28 meetings throughout Auckland prior to nominations closing where prospective candidates could attend and obtain information in regards to the process and requirements to run for election. Mr Banks did not attend any of those meetings.

The onus still remains on the candidate however to familiarise themselves with all relevant legislation when seeking election and then complying with that legislation.

Everything in this statement is true to the best of my knowledge and belief. I make this statement knowing that it might be admitted as evidence for the purposes of a standard committal or at a committal hearing and that I could be prosecuted for perjury if this statement is known by me to be false or intended by me to mislead.

(Signed)

 1:45 pm 4 May 2012

Statement taken and signature witnessed by:
(Signature & QID)

 DFI 22

Formal Written Statement
- Summary Proceedings Act 1957, section 162 -

I Peter Treacy states:

1. I am currently employed by SKYCITY Entertainment Group Limited as General Counsel, GM Government and Industry Affairs. I have held this role since 2008.
2. I was previously employed by the SKYCITY between July 2005 and 2007 as GM Regulatory Affairs before being made redundant.
3. SKYCITY Entertainment Group Limited operates in the gaming /entertainment, hotel and convention, hospitality, recreation and tourism sectors. The Group has operations in both New Zealand and Australia.
4. SKYCITY is a limited liability company incorporated and domiciled in New Zealand. The address of its registered office is Federal House, 86 Federal Street, Auckland. The company is dual listed on the New Zealand and Australian stock exchanges.
5. In the past SKYCITY have made donations to the two main political parties during their General Election campaigns, though this practice ceased in 2005.
6. SKYCITY had never made donations to candidates for the Mayoral campaigns until they were approached by Len Brown sometime in about March/ April 2011.
7. SKYCITY agreed to make a donation to both main party candidates. This was an executive decision made outside any board meeting and was approved by the Chairman Rod McGeech.
8. It was agreed to give both Len Brown and John Banks \$15,000 each for their campaigns and the payments were made by cheque. The account used to make these payments was the SKYCITY Management Limited account number [REDACTED] held with the ANZ Bank.
9. The cheque given to Len Brown was number [REDACTED] drawn on the above account and made payable to Len Brown for Mayor in the sum of \$15,000 dated 27 April 2010. The cheque requisition was requested [REDACTED]

Manager Government relations and authorised by myself. I produce a copy of the cheque requisition dated 27 April 2010 as **Exhibit 0001** and a copy of the cheque number [REDACTED] as **Exhibit 0002**.

10. On the same day, 27 April 2010 a lunch meeting was arranged at the Orbit Restaurant, SKYCITY to hand over the cheque to Len Brown. At this meeting was myself, Nigel Morrison Chief Executive SKYCITY, Richard Jeffrey CEO Telstar Clear and Len Brown. The cheque which was in a SKYCITY envelope was handed to Len Brown at this lunch. A receipt for this payment has never been received from Len Brown.
11. I produce a series of emails between [REDACTED] and [REDACTED] in relation to the raising of the cheque for Len Brown as **Exhibit 0003**.
12. I have been asked to ascertain when the cheque handed to Len Brown was presented and ANZ Bank have now confirmed that it was credited to an account LBFM on 3 May 2010. I produce a copy of the email confirming this as **Exhibit 0004**.
13. The original cheque raised for John Banks, cheque number [REDACTED] dated 24 May 2010 drawn on the same account as the cheque given to Len Brown was incorrectly made payable to 'John Banks' and not 'Team Banksie 2010' and was voided and replaced with cheque number [REDACTED] also dated 24 May 2010. I produce a copy of the original cheque number [REDACTED] as **Exhibit 0005** and the actual cheque number [REDACTED] as **Exhibit 0006**.
14. Though I was invited to be present when the cheque was handed over to John Banks I did not attend the meeting for some reason I can't recall now. I produce a copy of an email inviting me to the meeting on 24 May 2010 scheduled for 10.30 am as **Exhibit 0007**.
15. SKYCITY did receive a receipt for the payment made to John Banks from [REDACTED] Campaign Treasurer, and this receipt was dated 31 May 2010. I produce a copy of this receipt as **Exhibit 0008**.
16. I do know John Banks as we used to be neighbours some years ago. I can't remember ever discussing with him the donation made by SKYCITY to him.

17. I have been asked to ascertain when the cheque handed to John Banks was presented and Westpac have confirmed that it was presented to "Team Banksia 2010" on 25 May 2010.

18. I am sure that SKYCITY did not stipulate to either candidate that the donations they received were to remain anonymous.

Everything in this statement is true to the best of my knowledge and belief. It has been made by me knowing that it may be admitted as evidence for the purposes of a standard committal or at a committal hearing, and that I may be prosecuted for perjury for making a statement known by me to be false and intended by me to mislead.

Signature

Date:

Formal Written Statement
- Summary Proceedings Act 1957, section 162 -

I Nigel Morrison states:

1. I am currently employed by SKYCITY Entertainment Group Limited as the Managing Director and Chief Executive Officer and I have held this role for the past 4 years,
2. SKYCITY Entertainment Group Limited operates in the gaming /entertainment, hotel and convention, hospitality, recreation and tourism sectors. The Group has operations in both New Zealand and Australia.
3. SKYCITY is a limited liability company incorporated and domiciled in New Zealand. The address of its registered office is Federal House, 66 Federal Street, Auckland. The company is dual listed on the New Zealand and Australian stock exchanges.
4. SKYCITY was approached by Len Brown's side to make a contribution to their election fund. It was decided that if a donation was made to Len Brown then one should also be made to John Banks.
5. I was involved in the decision making process for SKYCITY to donate to both main party candidates for the Mayoral Elections in about March/April 2010. Once a decision was made to make the donations I emailed Rod McGeoch the Chair for his approval which was forthcoming.
6. I can't recall the exact date but I was present at a lunch time meeting at the Orbit Restaurant, SKYCITY when Len Brown's cheque was handed to him.
7. I can't recall how we notified John Banks of our donation but a meeting was arranged by my Executive Assistant, Anna McKinnon for John Banks to attend a meeting with me at the SKYCITY offices.
8. I can't remember the date of this meeting but I do remember that Anna McKinnon brought John Banks and possibly one other person who was with John Banks to my office.

9. This meeting lasted only about 10 minutes during which time I handed to John Banks the cheque in a SKYCITY envelope, there was no covering letter with the cheque.
10. I am sure that we made it clear to both Len Brown and John Banks that the donations were being made to their election funds by SKYCITY and it was never intended for them to remain anonymous.
11. I have been asked if I know John Banks and I can say only through his previous role as Mayor of Auckland as I now know Len Brown. I have never privately socialised with either of them.

Everything in this statement is true to the best of my knowledge and belief. It has been made by me knowing that it may be admitted as evidence for the purposes of a standard committal or at a committal hearing, and that I may be prosecuted for perjury for making a statement known by me to be false and intended by me to mislead.

signature

Date:

Formal Written Statement
- Summary Proceedings Act 1957, section 162 -

I Anna McKinnon states:

1. I am currently employed by SKYCITY Entertainment Group Limited as Executive Assistant to Nigel Morrison, Managing Director of SKYCITY Entertainment Group. I have held this role for the past 5 years.
2. I have been asked what I can remember about the donation cheques given to Len Brown and John Banks by SKYCITY for the election funds.
3. I am able to recall that I was asked by Nigel Morrison to have some cheques raised by accounts payable for Len Brown and John Banks both for \$15,000.
4. I contacted [REDACTED] by telephone and asked for a cheque to be made out to Len Brown for \$15,000 which was subsequently handed to me. I then gave this cheque to either Nigel Morrison or Peter Treacy.
5. I remember making the reservation at the Orbit Restaurant on behalf of Nigel Morrison in relation to the meeting with Len Brown.
6. On Friday 21 May 2010 I sent an email to Tracey Baxter requesting a cheque to be made out to John Banks, the same as the one previously made out to Len Brown. I had arranged a meeting between Nigel Morrison and John Banks for the coming Monday at 10.30am and obviously required the cheque before then. I produce a copy of this email as **Exhibit 0009**.
7. On Monday 24 May 2010 I sent a further email to Tracey Baxter requesting her to now make the cheque out to 'Team Banksie 2010'. This cheque was to replace the cheque that had already been made out incorrectly. It would appear from the email I was notified to change the payer [REDACTED] I produce a copy of this email as **Exhibit 0010**.
8. I subsequently received the John Banks cheque which I placed in a SKYCITY envelope. I produce a sample SKYCITY envelope as **Exhibit 0011**.

9. On 24 May 2010 I remember collecting John Banks and one other, I can't now recall who was with him and showed them into Nigel Morrison's meeting room. That is the last contact I had with John Banks.

Everything in this statement is true to the best of my knowledge and belief. It has been made by me knowing that it may be admitted as evidence for the purposes of a standard committal or at a committal hearing, and that I may be prosecuted for perjury for making a statement known by me to be false and intended by me to mislead.

signature

Date:



NZ POLICE
WITNESS STATEMENT

Statement must be disclosed

- 1 of 11 -

U-WS 03/12

IR No.

Statement of: <u>Kim DOTCOM</u>	DOB: <u>[REDACTED]</u>
Statement taken by: <u>Dan PHILLIPS</u>	
Date: <u>08/05/2012</u>	Time: <u>1.00 PM</u>

I am speaking to Detective Dan Phillips in relation to my previous interactions with Mr John Banks.

Also present are Paul Davison QC & Detective Sergeant Franich.

He states:

My family and I first came to New Zealand in 2009 for a holiday and decided we liked the country. We rented the mansion at my current address initially for a two month period and then began negotiating a three year lease with an option to buy.

I can't remember exactly when, but sometime in 2009/2010 we began applying to gain residency in New Zealand for our family.

I employ Wayne Tempero to provide security services. In 2010 he informed me that he knew the current Mayor of Auckland John Banks. I don't know how Wayne knows Mr Banks.

I thought it would be a good idea to meet Mr Banks and introduce myself, so a meeting was arranged for mid-April.

I arranged for Mr Banks and a friend [REDACTED] to travel from Mechanics Bay to our home here in Coatesville by helicopter.

The helicopter belongs to Charles Shrimpton and we lease it while we are in the country. [REDACTED] is the helicopter pilot and his contact number [REDACTED].

The meeting with Mr Banks was over lunch and the people present were Mr Banks, myself, [REDACTED], Wayne Tempero and my butler Mark Archers. My wife may have come in occasionally.

Signature: Signature witnessed by:



NZ POLICE
WITNESS STATEMENT CONTINUED

H-WS 03/12

- 2 of 11 -

IR No.

Statement of: Kim DOTCOM

Mark now works at the Grand Hyatt in Hong Kong.

During the course of the meeting Mr Banks and I talked about our backgrounds and I told him about our experiences in New Zealand. We discussed economic matters and opportunities I believed existed to improve business performance in New Zealand. I mentioned specifically what could be done to improve internet connectivity, for instance with a new high speed broadband cable as it being developed by Pacific Fibre.

The meeting was friendly in nature and we also discussed the fact that my family and I were applying for residency in New Zealand.

Mr Banks informed me that he could help with our residency application.

I don't remember what his exact words were and he didn't say what that 'help' would actually involve.

I believed that as he was a politician and had been a minister of parliament that he would be well connected. He might therefore be able to speak to the appropriate minister and put in a good word.

I didn't expect him to do anything inappropriate on my behalf.

I am involved in a range of businesses and IT start-up ventures that I believe would assist New Zealand and I thought Mr Banks might explain the potential value I could bring to the country.

I was impressed that Mr Banks offered to assist us with our residency application without being asked and for no apparent reward to himself. I thought of him in a positive way as a result and would describe our relationship from that point as friendly.

After meeting with Mr Banks I consulted my legal representatives and explained his offer of assistance. They advised me to not accept his help as it was not necessary and that it might potentially hinder our application if it was viewed badly by the immigration staff making the decision.

Signature: Signature witnessed by:



NZ POLICE
WITNESS STATEMENT CONTINUED

II-WS 03/12

- 3 of 11 -

IR No:

Statement of: Kim DOTCOM

On the 15th of April 2010 Mr Banks called me. I am not sure if the call was made to my Hong Kong roaming mobile number [REDACTED] or my Skype in number [REDACTED]

I am not able access my records to tell you the phone number Mr Banks called me on.

During the call Mr Banks once more offered to assist me with my residency application. He never made any specific mention of how he would assist me and no names were mentioned during the conversation.

I explained to Mr Banks that I had spoken to my lawyers and been told not accept his assistance.

Mr Banks seemed to understand and accept the advice I had received.

On the 16th of April 2010 I emailed Mr Banks and thanked him for his offer to assist with my residency. I mentioned that I was confident our residency application would be successful and suggested that we meet again sometime to discuss some of the business ideas I had previously mentioned to him

I have provided Detective Phillips with a copy of that email.

Another meeting was arranged between us for the 9th of June 2010.

On this occasion Mr Banks and his wife drove to my home for lunch.

My wife and Wayne Tempero were present again during this meeting and my butler Mark was also around during the time.

I believe my Chief Financial Officer (CFO) at that time Grant McKavanagh was there at the Mansion, but wasn't present at the meeting.

Signature: Signature witnessed by:



NZ POLICE
WITNESS STATEMENT CONTINUED

IL-WS 03/12

- 4 of 11 -

IR No.

Statement of: Kim DOTCOM

A comment that I remember distinctly from that meeting was when Mr Banks said "your wife is the most beautiful woman I have ever seen."

I was surprised he would say that with his own wife present.

During the course of our meeting and lunch Mr Banks started talking about his ambitions to run for the Auckland mayoralty. He said that he would need to raise money to be able to campaign and that raising campaign money in New Zealand is a lot harder than in countries like the United States.

I offered to help him and told him I would donate \$50,000 to him.

Both he and Wayne looked a bit shocked and impressed when I said the amount.

I wanted to give him the money because I was thankful that he had offered to help me with my residency and I thought it would cement that goodwill.

I did not expect anything in return for my donation.

Mr Banks immediately accepted my offer, so I asked Wayne who was behind the kitchen table to go and tell Grant my CFO to write out a cheque for Mr Banks right away.

Mr Banks then said to me that it would be better to split it into two cheques for \$25,000.

I asked him why?

He told me it was because then he would not have to declare where it came from.

I was a little offended by that explanation as I felt it implied that he did not want to be seen to be associated with me.

I told him that I didn't have a problem with it being known that I had made a donation to him.

Signature: Signature witnessed by:



NZ POLICE
WITNESS STATEMENT CONTINUED

II-WS 02/12

- 5 of 11 -

IR No.

Statement of: Kim DOTCOM

He said to me "I want to help you Kim and I can help you more effectively if no one knows about this donation."

He did not specify what he meant by helping me.

At that time I was not aware of the rules in relation to donations to campaigns for local government. I assumed that Mr Banks wanted cheques for \$25,000 because there was a threshold and amounts higher than that would have required him to declare who had made the donation.

I have since learnt that this is not the case and that the source of donations should be listed if it is known.

Wayne passed on my request to Grant and two cheques for \$25,000 were prepared. They were made out to 'Team Banksie' by Grant and I just signed.

I can't remember with certainty whether I signed the cheques during or after the meeting.

I have provided Detective Phillips with a photo copy of those cheques.

During the course of that same meeting I also mentioned to Mr Banks I could run an advertising campaign for him on my website to help him get elected. I told him I was happy to do it for free.

He seemed excited by the suggestion.

I subsequently checked with my lawyers at Simpson and Grierson and they told me that the advertising campaign was not a good idea as it would have to be declared as an election expense and donation.

Signature: Signature witnessed by:



NZ POLICE
WITNESS STATEMENT CONTINUED

11-WS 03/12

- 6 of 11 -

IR No.

Statement of: Kim DOTCOM

After the meeting Grant took the two cheques with him to deposit into Mr Banks' election account. Grant happened to be going on holiday in the South Island at that time as it was a long weekend.

He deposited them in the South Island during that trip. The only reason they were deposited at that location was because that was where he happened to be at the time.

The cash from those cheques came out of my bank account on the 14th of June 2010. I think there may have been a short delay because of the banks being shut over the long weekend.

I have provided Detective Phillips with a copy of my ANZ bank statement showing the two transactions in which the money from the cheques was withdrawn from my account.

I had been concerned that the money had been forwarded as I directed so I asked Wayne to make sure it had been received. Wayne told me that he had called Mr Banks and that Mr Banks had confirmed that he had received the money.

A few days after that, I am not sure of the date Mr Banks called me sometime between 10am and 4pm. I was on my work bed and Mona was there with me. I had the call on speaker phone, as I prefer that to holding a phone up next to my head.

Again I am not sure what number he called me on, on that occasion. Due to my phone set-up I am also unable to see the phone number of the person calling me either, so I cannot say what phone number he called me from.

Mr Banks asked me about the internet campaign I had mentioned at our last meeting. I explained to him how it could work and what would be involved.

I then told him about the legal advice I had received and that on that basis I didn't think it was a good idea.

Mr Banks seemed to accept that the advice was correct.

Signature: Signature witnessed by:



NZ POLICE
WITNESS STATEMENT CONTINUED

IP-WB 03/12

- 7 of 11 -

IR No.

Statement of: Kim DOTCOM

During the course of the conversation I asked him "did you get my donation."

He said "yes thank you very much."

During 2010 I had viewed two fireworks displays in Hong Kong. One was for the Chinese New Year in February and another I believe was at the Asia Games.

I met the person responsible for those fireworks displays and thought it would a good gesture to arrange something special for New Zealand, as by this time we had obtained our residency.

I had previously mentioned to Mr Banks that I wanted to give something back to Auckland.

I therefore arranged for my contact in Hong Kong to be put in touch with Grant or Wayne and for them to liaise with Sky City in Auckland so a large fireworks display could be planned for New Years 2010/11.

Mr Banks informed me that he was helping with the process, particularly in relation to obtaining the appropriate permits.

On New Year's Eve 2010/11, my wife Mona and I watched the fireworks display from a helicopter and following the display the helicopter landed and we proceeded to the Hilton Hotel where I had rented the Henderson penthouse for a New Year's Eve celebration party. Upon our arrival at the Hilton, we met Mr Banks and his wife in the foyer of the hotel. We had invited Mr Banks and his wife to the party, and to view the fireworks display from there. We spoke briefly before Mr Banks and his wife departed.

Mona and I then proceeded up to the Henderson Penthouse and joined our guests there.

On the 21st of January 2011 I had my birthday party here at the mansion.

Signature: Signature witnessed by:



NZ POLICE
WITNESS STATEMENT CONTINUED

II-WVS 03/12

- 8 of 11 -

IR No.

Statement of: Kim DOTCOM

Mr Banks came to the party and at some point we had a discussion in which I mentioned that I was trying to purchase three properties the house and mansion at this address and another property in Doubtless Bay.

I told him that we were either applying to obtain approval for the purchase from the Overseas Investment Office (OIO) or the decision was pending. I can't remember what stage we were up to at that point.

Mr Banks told me that he would be happy to assist with my OIO application and that he would be speaking with Mr Williamson, who he knows well. Mr Williamson was the Minister that was responsible for the decision and Mr Banks said he would that he would tell him his opinion of me and pass on some good words on my behalf.

I took that to mean that he would speak positively of me and that he would outline the benefits I was contributing to the country.

In April/May 2011 we were back in Hong Kong. Mr Banks called Wayne and told him he had been in contact with the OIO and that Mr Williamson had signed off approval for the purchase.

He told Wayne, 'we're close to the finish line now, there is only one minister left to sign off approval and there is no reason he would overrule another minister and not approve.'

We returned to New Zealand and in July/August that same year we found out that the Minister Simon Power had declined my application and that Mr Williamson had joined him in now declining it as well.

I was upset by this decision because it appeared to contradict what I had been told before from Mr Banks.

Not long after that Wayne told me that he had received an email from Mr Banks asking me to make a donation to the ACT party. I told Wayne to tell him that I would not be donating.

Signature: Signature witnessed by:

P373



NZ POLICE
WITNESS STATEMENT CONTINUED

II-VES 03/12

9 of 11

IR No.

Statement of: Kim DOTCOM

Towards the end of 2011 Wayne told me that Mr Banks had contacted him and asked for a recommendation for a good hotel in Hong Kong.

During our previous conversations I had told Mr Banks that I had stayed in the top floor of the Hyatt in Hong Kong for six years. It was obvious therefore that I would recommend that hotel and it was clear to me that he was seeking my help in getting him a good rate at the hotel.

I told Wayne to tell him that he could have our suite while he stayed there, but apparently Mr Banks said he could not accept this as he was now a Member of Parliament and it would be a breach of the rules.

I then called the Hyatt and told them Mr Banks was going to be coming and staying with them and that he was a friend of mine. I told them that he was a VIP in New Zealand and that he should be treated as such and that he should be offered my room rate when he stays.

After being arrested at my home in January I was placed in custody at Mt Eden Prison. I suffer severe back pain as a result of two slipped discs and require ongoing treatment including medication, swimming and a specialist mattress.

While in custody I suffered severe debilitating back pain and convulsions. The staff at Mt Eden Prison did not appear to take my condition seriously and did not assist me by providing the ongoing care I require.

I spoke with my lawyers and based on their advice, I directed them to write directly to Mr Banks as he was the local MP for the Mt Eden Prison.

The purpose of the letter was to ask him as the local MP to contact the prison staff and make sure that my health was being properly taken care of and that I was treated humanely.

My lawyer received a reply from Mr Banks saying that intervening to make such a call would have been inappropriate.

Signature: Signature witnessed by:



NZ POLICE
WITNESS STATEMENT CONTINUED

IL-WS 03/12

- 10 of 11 -

IR No.

Statement of: Kim DOTCOM

I was disappointed in this response as Mr Banks had been approached as the local MP and I felt it was his duty to act in the interests of one of his constituents, not because of our previous friendly contact.

After I was released from custody I rang Mr Banks and asked to meet him to explain the nature of the charges I faced and the fact that they had been brought for political reasons.

Mr Banks said he would be happy to meet me, but that he was in a meeting and that he would need to call me back. He never contacted me again after that call.

That is the last contact I have had with Mr Banks.

The reason I have brought the donations I gave to Mr Banks to the attention of the media is because I wanted to do the right thing.

I have watched the news items in which Mr Banks 'anonymous' donation from Sky City had been raised and it reminded me of my own situation.

I remember Mr Banks saying to me "I can help you more effectively if no one knows about this donation."

This made me think of this whole deal about Sky City getting more poker machine for providing a convention centre and I thought of Mr Banks getting an anonymous donation from them.

I also thought it was ridiculous that Mr Banks in one interview said he hardly knew me and had only met me for about five minutes.

As I have told you we have met several times and had some long conversations, so I just thought what sort of a friend is that when I saw that interview.

Signature: Signature witnessed by:



NZ POLICE
WITNESS STATEMENT CONTINUED

ILWS 03/12

- 11 of 11 -

IR No.

Statement of: Kim DOTCOM

I did not provide donations to any other candidates during the 2010 Auckland Mayoral Elections.
The only photographs or footage I have of Mr Banks and I together have already been published in the media.

Everything in this statement is true to the best of my knowledge and belief. I make this statement knowing that it might be admitted as evidence for the purposes of a standard committal or at a committal hearing and that I could be prosecuted for perjury if this statement is known by me to be false or intended by me to mislead.

(Signed)

Statement taken and signature witnessed by:
(Signature & QID)



NZ POLICE
WITNESS STATEMENT
Statement must be disclosed
- 1 of 9 -

IL-W5 03/12

IR No.

Statement of: Wayne Phillip TEMPERO

DOS: [REDACTED]

Statement taken by: A.Z.K HEADIFEN

Date: 08/05/2012

Time: 1530 PM

Wayne Phillip TEMPERO states

I have worked for Kim Dotcom as a security consultant for over two years providing close protection and security consultation for the family worldwide. I live with the family and live on site and my job also means I take care of personal administration and organisation for Kim and the family.

I am the one who facilitated the meeting with John Banks

In late March early April 2010 Kim wanted to meet the then mayor of Auckland, John Banks because Kim was donating half million fireworks for New Years Eve 2010/11 and it had to go through council for resource consent. Kim just wanted to meet the Mayor. Kim had never met John Banks before that.

I contacted John Banks through a friend of mine [REDACTED] I knew [REDACTED] had a connection to John BANKS.

[REDACTED]

I had actually meet John Banks on a handful occasions through my work at various VIP functions such as the Americas Cup and David Beckham visit things like that. I knew him well enough to say hello too in passing but nothing more than that and had no phone contact for him.

I made arrangements for Kim to meet John Banks with [REDACTED] Between [REDACTED] and I we arranged it so that about three weeks after Kim had asked to meet the Mayor we went with our helicopter pilot

Signature: Signature witnessed by:

P380



NZ POLICE
WITNESS STATEMENT CONTINUED

IR-WS 03/12

- 2 of 9 -

IR No.

Statement of: Wayne Philip TEMPERO

and picked John Banks up from Mechanics Bay flew him into site at 186 Mahoenui Valley Road, Coatesville. That happened on the 13th of April 2010 and I know that from the helicopter log which I had subsequently viewed.

On that helicopter flight there was me, the pilot [REDACTED] and John Banks. The helicopter used was leased privately [REDACTED]. This was the only occasion that John Banks has been in the helicopter [REDACTED].

There was nothing unusual that happened on the helicopter flight.

When we got to the main house it was just a nice meeting and a sit down. The people present were [REDACTED] John, myself, Kim. I don't think Kim's wife Mona was there.

I think while the meeting took place [REDACTED] was around waiting to take John back. There would have been other staff around but I am not sure who they were.

In the house there is a large breakfast island and the large main table. My practice is that if people come to meet Kim I won't be sitting at the main table where the meeting is taking place but I will be close by, not because it is a threat situation, but just to clarify something or get something.

I tend to sit on a bar stool at the breakfast island so that I am far enough away to be private but can hear everything while still remaining respectful.

This is essentially what I did at that first meeting. As normal and I also went in and out of the room.

Nothing unusual happened during that first meeting which may have lasted about an hour or so. After it finished [REDACTED] John, [REDACTED] and I went back to Mechanics Bay to drop John and [REDACTED] off. There was no unusual talk during the flights.

About two weeks after that first meeting I can recall a second meeting at 186 Mahoenui Valley Road, Coatesville.

Signature: Signature witnessed by:

P381



NZ POLICE
WITNESS STATEMENT CONTINUED

IL-WFS 03/12

- 3 of 9 -

IR No.

Statement of: Wayne Philip TEMPERO

I don't know the exact date but I know it is written on the cheques. If I hadn't seen the cheque butts I would not know the exact day it was.

This second meeting was basically for Kim and his wife to have lunch with John Banks and his wife. That second meeting was arranged through Kim. I think he informed me in the morning that John would be coming out for lunch with his wife.

On the day the cheques were signed I remember John Banks and his wife drove up in his private car. I remember I gave him a hard time because he came up in a silver Holden Commodore or a Ford and I remember I said something like "this is not like you John where's all your Ferraris?" because I know he talks about his Ferraris.

John said something about staying under the radar and said something about "it is probably not good for me to be riding around in a Ferrari".

I took John and his wife to the main area where Kim was and they sat down for lunch.

I remember they were served by chef at the time and one of the butlers and I took my usual position at the bar island. I can not remember the chef's name. It might have been an Italian guy called Alex who was on a short term contract. The butler was Mark ELDERS who I believe is now in Hong Kong.

While they were meeting and having a meal. I was cruising in and out. Kim, Mona, John Banks and his wife were all there.

I remember that while the meal was finishing there was some small talk.

I remember sitting there on the stool at the island and John breached the subject of how hard it was to get people to donate money to his mayoralty campaign.

Kim asked how much is normal.

Signature: Signature witnessed by:



NZ POLICE
WITNESS STATEMENT CONTINUED

II-WS 03/12

- 4 of 9 -

IR No.

Statement of: Wayne Phillip TEMPERO

I can't remember the response from John.

Kim said "I will give fifty thousand dollars then, I am very happy to help".

Even though I don't remember John's response when Kim first asked John how much was normal to donate I think that John had said an amount that was a lot less than fifty thousand dollars. I think this because I remember when Kim responded with fifty thousand dollars I thought to myself that that is a lot of money and that it would have been a good lunch for John.

When Kim made the offer, John and his wife were positioned so that they had their backs to me so I could not see their reaction.

I just looked at Kim. I know Kim likes to do things straight away. Kim said to me "Is Grant still here?"

By Grant, Kim meant Grant McKavanagh who controlled the Megastuff listed company. He is the General manager of the Megastuff business that runs the household and the salaries for about forty staff.

I said "I don't know I will check" because Grant was in the office in another building on the property. I told Kim "I think so I will go and see him."

Kim said "Can we get Grant to write a cheque now?"

This was said in John's presence.

I remember as I was getting out, walking to the door to get Grant, they called me back. I can't remember if it was John who stopped me or Kim who stopped me.

I remember John Banks said "No, not one cheque, write two checks out for \$25,000 each."

Signature: Signature witnessed by:

P383



NZ POLICE
WITNESS STATEMENT CONTINUED

IL-WS 03/12

- 5 of 9 -

IR No.

Statement of: Wayne Philip TEMPERO

Kim said "why?"

John said that by making them out for that amount the cheques can be made anonymous.

Kim said he didn't mind that his name was out there.

John Banks replied "I like you Kim, I would like to help you but unless it is anonymous I can't do that."

I then went to see Grant. I told Grant to write out two cheques for \$25,000.

I can not remember how Grant knew the details to write on the cheques although I think Grant has said I handed him a piece of paper with those details.

I can't remember if I had a piece of a paper with the names and the account numbers on it.

I don't remember actually seeing Grant writing out the two cheques I may have gone to my room momentarily while Grant wrote out the cheques. My room is near where Grant was working so I might have gone into my room to check my emails while Grant wrote out the cheques.

I think the cheques were written by Grant and I carried the cheque book into Kim. I can't remember if Grant remained in the other building or if he walked over with me.

I didn't pay a lot of attention to who the cheques were made out to when I took them back to Kim.

I only know those details and the dates when I saw the cheques afterwards. As far as I know now both cheques were Megastuff Limited cheques made out to Team Banksia. For the record I used to be a director of Megastuff Limited but never had signing authority for the cheques.

I remember I took the cheques back to Kim for them to be signed.

Signature: Signature witnessed by:



NZ POLICE
WITNESS STATEMENT CONTINUED

8-WIS 03/12

- 6 of 9 -

IR No.

Statement of: Wayne Philip TEMPERO

I don't specifically remember Kim signing the cheques but it is my routine to just take the cheques back for Kim to sign.

When I took the cheques back for Kim to sign I can not recall if John was still there with his wife or if he had left. I do not recall anyone discussing anything to do with keeping distance between John BANKS and the cheques.

From memory the only reason that I have got for why that we didn't take the cheques to the bank straight away after they were signed was because the banks were closed. If the banks had been opened I would have got Grant to bank them straight away.

I remember Kim gave the cheques to Grant and Grant said he was flying down to Queenstown that night and he would bank them the next day.

I do remember walking John Banks and his wife out to the car and thanking them for coming up and just general small talk.

I walked out with John and his wife and he said "I will see you again. I have your number. We will keep in touch."

At some point I had exchanged my number with John. I would say probably at the first meeting.

That was it for that day.

After that Grant did bank the cheques in Queenstown I think over Queens birthday weekend.

The following week after that had happened Kim was asking me if the cheques had gone through, if they had been cleared. Kim hounded me because he was interested in if the cheques had been cleared just to make sure it had been done.

Signature: Signature witnessed by:



NZ POLICE
WITNESS STATEMENT CONTINUED

B-WFS 03/12

- 7 of 8 -

IR No.

Statement of: Wayne Philip TEMPERO

I asked Grant and he said there was no way we would know because they had gone into the private bank account and we would have to wait for our statement to come back. Grant told me the cheques can show up on a person's statement very quickly but the funds are not available until they have been cleared.

I can not remember if I rung John Banks or if John Banks rung me but I remember that around this time I had a conversation with John Banks. I would have asked "Have the cheques been cleared or not" and he said yes they had been cleared and I told Grant. I don't remember anything else about that phone call.

Before that I would have had only one or two phone calls with John Banks. Those phone calls would have been about how to get through the gates when John and his wife came to 186 Mahoenui Valley Road, Coatesville for the second meeting with Kim and would have occurred on the day of that meeting or the day before.

I think that the phone conversations with John were on my mobile phone [REDACTED] and John was using his cell phone number which is [REDACTED]

After that I had about six phone calls with John banks over a six month period. I spoke to him on his personal number [REDACTED]

The phone calls would have included when I rang John to come to Kim's birthday party and when I invited John to the fireworks.

I remember one time John rung up and asked us who our lawyers were for the Overseas Investment Office. Our lawyers were Simpson Grierson. John was trying to help and just ask questions on our behalf that was all.

My conversations with John were all short and there was no other contact on any other phone numbers.

Signature: Signature witnessed by:



NZ POLICE
WITNESS STATEMENT CONTINUED

01-WSS 03/12

8 of 9

IR No.

Statement of: Wayne Philip TEMPERO

As far as I know after that second meeting between Kim and John when the cheques were made out Kim and John meet two more times face to face.

One time was at the fireworks display in the viaduct on New Years Eve 2010/2011. Kim was going out of the Hilton as John was going into the Hilton. Kim was on his way to watch the fireworks display from a helicopter and it was just a brief hello.

The next time was on January the 20th 2011 at Kim's birthday party here at the lower house. I remember John gave a happy birthday stand up speech. There were about fifty other people there and no private meeting between Kim and John.

About a month ago John rang up and asked me about my firearms case and just asked how it was going. I think around that time he had also sent me a text asking how I was going. This was before the Sky city donations came up and there was no talk about donations or anything related. This conversation was well before the sky city donations came out.

John was just ringing me to see how I was going and seeing if he could offer me any advice given my situation. This was a call made to me and was not an attempt to contact Kim.

As part of this statement I have been asked why John Banks might have called me in this way given that I my relationship with John Banks has been limited to the times that John has meet with Kim. My explanation is that John was just being a nice guy. I think he was genuinely being a nice guy just seeing how I was going after reading about the firearms charges in the papers.

I have not had any email contact with John.

Since it has come out about the donations made to John Banks I have spoken to Kim about what happened but we have not sat down and discussed the detail of what has happened and what was said.

My recollection of what was said is my best efforts to recall unaided or prompted by Kim.

Signature: Signature witnessed by:



NZ POLICE
WITNESS STATEMENT CONTINUED

II-WS 03/12

- 9 of 9 -

IR No.

Statement of: Wayne Philip TEMPERO

I am not subject to any influence from Kim. There has been no coaching. This is what I recall on those meetings on those days.

Everything in this statement is true to the best of my knowledge and belief. I make this statement knowing that it might be admitted as evidence for the purposes of a standard committal or at a committal hearing and that I could be prosecuted for perjury if this statement is known by me to be false or intended by me to mislead.

(Signed)

Statement taken and signature witnessed by:
(Signature & Q/D)



NZ POLICE
WITNESS STATEMENT
Statement must be disclosed
- 1 of 4 -

SI-WIS 03/12

IR No.

Statement of: <u>Gregory Brett TOWERS</u>	DOB: <u>[REDACTED]</u>
Statement taken by: <u>Detective Sergeant Mark Franich</u>	
Date: <u>21/05/2012</u>	Time: <u>1010 AM</u>

I am speaking with Detective Sergeant Mark Franich of the Auckland City Police Criminal Investigation Branch in relation to contact I made with the Hon. John BANKS of behalf of my client Mr Kim DOTCOM in early 2012.

Mr DOTCOM has waived 'legal privilege' on this matter for me to discuss it with you.

Also present at this meeting is Detective Inspector Mark BENEFIELD of the Auckland City Police Criminal Investigation Branch.



Since this time Simpson Grierson has been the New Zealand law firm acting for Mr DOTCOM. Many different lawyers in the firm have done work for him however I am his principal lawyer contact here at the firm.

Simpson Grierson has provided legal advice for Mr DOTCOM on different matters including acting for him in his Overseas Investment Office [OIO] applications to purchase the mansion and associated property at Coatesville, Auckland and a property in Northland.



Signature: [Signature] Signature witnessed by: [Signature]



NZ POLICE
WITNESS STATEMENT CONTINUED

W-WS 03/12

- 2 of 4 -

IR No.

Statement of: Gregory Brett TOWERS

[REDACTED] Mr DOTCOM never asked my views on using John BANKS to help him [REDACTED] I did however subsequently learn through Mr Wayne TEMPERO, an employee of Kim DOTCOM, that John BANKS had been offering advice [REDACTED]

On learning this my advice to Kim DOTCOM was to let them [the OIO applications] go through the normal processes.

I was not aware of any donation Mr DOTCOM made to John BANKS to assist with his campaign to be Mayor of Auckland in the 2010 Auckland Council elections.

I was also unaware (until I read about it in recent media coverage) that there was also a request put to Mr DOTCOM to donate money to the ACT party for the 2011 parliamentary election.

[REDACTED]

I have provided Detective Sergeant Mark FRANICH a copy of the email dated Monday, 20 September 2010 at 1:25pm that provided this advice.

In early 2012, Mr DOTCOM's residence was the subject of a search warrant and subsequently he was arrested and spent nearly 6 weeks in custody at the Mt Eden Remand Prison.

While in custody Mr DOTCOM was suffering from major health issues concerning two slipped discs in his back and a torn back muscle that had required surgery to repair. Mr DOTCOM asked me if I would

Signature: [Signature] Signature witnessed by: [Signature]



NZ POLICE
WITNESS STATEMENT CONTINUED

B-WIS 03/12

- 3 of 4 -

IR No.

Statement of: Gregory Brett TOWERS

contact John BANKS on his behalf to seek assistance from Mr BANKS to get Mr DOTCOM additional mattress support to relieve the aggravation of his back injuries.

On the 7th February 2012 I telephoned Mr BANKS' Ministerial office and left a message asking him to please call me about Kim DOTCOM.

On the 8th February 2012 at 12.00pm I received a telephone call from John BANKS on the mobile number [REDACTED]

He explained to me that he had met with Judith Collins the day before and that she wanted support by ACT for some Search & Surveillance legislation and that he had told her that he was concerned about it.

John BANKS said that as much as wished to publicly support Kim that may backfire on Kim if it became known about the election support. He said he was very supportive however of Kim's case.

He claimed to have only ever have spoken with Kim DOTCOM for about half an hour in total but as he was his current Member of Parliament Kim DOTCOM could request a visit by his MP at any time and that he may be able to do something for Kim if Kim asked.

In the remainder of the conversation I discussed the lack of merits of the case against Kim DOTCOM in the United States.

[REDACTED]

Later that day (after speaking with Paul DAVISON QC, Mr DOTCOM's barrister who had also visited him) I followed up this phone conversation with a formal request by email to John BANKS' ministerial email address requesting John BANKS visit Kim DOTCOM in custody at the Mt Eden Correctional Facility (Remand Centre). I pointed out that Mr DOTCOM's medical condition and lack of a suitable mattress was the issue Mr DOTCOM wanted him to visit.

Signature: Signature witnessed by: [Signature]



NZ POLICE
WITNESS STATEMENT CONTINUED

IL-WS 03/12

- 4 of 4 -

IR No.

Statement of: Gregory Brett TOWERS

On February 20 2012 I received a reply by email from [REDACTED] of John BANKS' ministerial office. It stated that he had received my request and that he [Mr BANKS] said he would try and get to Mt Eden that afternoon.

I have provided Detective Sergeant Mark FRANICH a copy of these emails dated Monday, 20 September 2010 at 1:25pm, and Monday, 20 February 2012 at 11:23am.

I am not aware of John BANKS ever visiting Kim DOTCOM while he was on remand custody in prison.

About a week or more later I received a phone call from John BANKS ministerial office and I was advised that "John BANKS would not be visiting so please do not make contact again."

There is no file note recorded receiving this call on file.

I have no association with John BANKS and may have met him on only one or two occasions. [REDACTED]

Everything in this statement is true to the best of my knowledge and belief. I make this statement knowing that it might be admitted as evidence for the purposes of a standard committal or at a committal hearing and that I could be prosecuted for perjury if this statement is known by me to be false or intended by me to mislead.

(Signed)

Statement taken and signature witnessed by:
(Signature & QID)

MP 6452



NEW ZEALAND POLICE
WITNESS STATEMENT

II-WS 03/12

Statement must be disclosed

- 1 of 5 -

IR No.

Statement of: <u>Grant McKavanagh</u>	DOB: <u>19/11/1969</u>
Statement taken by: <u>Clare McRae</u>	
Date: <u>08/05/2012</u>	Time: <u>12:58 PM</u>

I started working for Kim DOTCOM in May 2010 and finished working for him on the 29th or 30th of April 2011. To begin with I was on a contract rate then went to monthly.

I was the Chief Financial Officer for Megastuff Ltd which meant that I ran the operations in New Zealand, anything that Kim was doing in New Zealand. This included the running of the properties and their finances, the renovations of the properties and the related finances, and the development programmes on the cars (adapting them to Kim DOTCOM's requirements, adding NOS and camera kits).

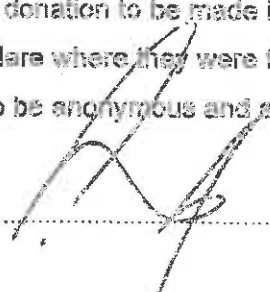
On Wednesday the 9th of June 2010 I was working from my office in the mansion at 198 Maheonui Valley Road, Coatesville, AUCKLAND.

At about lunchtime, between 1pm and 2pm, I was sitting in the office and saw John BANKS and his wife arrive in a Holden car that drove past my office. About half an hour before this I had been told by Wayne TEMPERO that he was coming to have lunch with Kim. I don't know what the purpose of this meeting was.

Wayne TEMPERO is Kim's Head of Security. I have known him about 15 years.

Lunch was held in the mansion but the office I was working from is on the other side of the mansion so I did not see John BANKS and his wife apart from when they arrived. I am only aware of Kim DOTCOM and John BANKS and his wife being at the lunch.

I think it must have been about 4pm that Wayne TEMPERO came to the office and spoke with me. He told me that Kim wanted to donate \$50000 to John BANKS mayoral campaign and that John BANKS wanted this donation to be made in two payments of \$25000 each, which meant that he would not have to declare where they were from. Wayne told me they (not specific as to who) wanted the donations to be anonymous and as removed as possible, by this I assumed they meant with no trace

Signature:  Signature witnessed by:

P397



NZ POLICE
WITNESS STATEMENT CONTINUED

IL-WS 03/12

2 of 5

IR No.

Statement of: Grant McKavanagh

back to where the donations came from. I stated that we should bank them away from the Albany Branch.

We had a discussion about how this was going to happen. Wayne suggested doing \$25000 in his name and \$25000 in Kim's name, but I told him that this wouldn't make any difference, they were still coming out of the same cheque account.

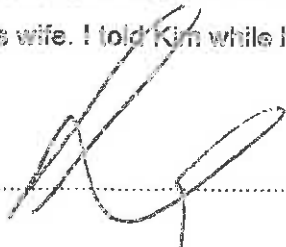
I was going to Queenstown the next day so suggested that I would bank or post the cheques from down there. I remember part of the conversation was that it wouldn't be possible to bank them that afternoon because it was getting late. They, I am not sure who, were wanting as much distance as possible and wanting it to be anonymous therefore I decided it would be better to bank or post them in Queenstown than at the normal Albany branch Megastuff Ltd used. At that time we were trying to keep Kim out of the media as he had come to New Zealand to enjoy the beautiful country with his kids, not be in the media.

I have since seen a copy of the cheques printed in the media and know that they were made out to Team Banksie 2010. I can't remember whether this had "Ltd" on the end of it or not. I know these details from seeing the cheques in the media recently. The copies of the cheques that were printed in the paper appear to be accurate copies of the cheques I wrote out on the 8th of June 2010.

Wayne had brought a piece of paper to me in the office with the details of the account name to make the cheques payable to. I wrote two cheques out as requested, for \$25000 each to Team Banksie 2010. These were both from the Megastuff Ltd account.

There was only one Megastuff Ltd account. If I needed more funds I would ask Kim for them for the NZ operations. Initially John LO, Kim's personal assistant at the time, Kim DOTCOM and I could all sign off on the account but then it was reduced just to Kim.

Wayne and I both went over to see Kim and get the cheques signed. I did not come across John BANKS or his wife. I told Kim while he was signing them that I was going to bank or post them down in

Signature:  Signature witnessed by:

P398



NZ POLICE
WITNESS STATEMENT CONTINUED

II-WS 03/12

- 3 of 5 -

IR No.

Statement of: Grant McKavanagh

Queenstown the next day. I believe Kim said "good" in response to this. Kim is a "no surprises" kind of guy.

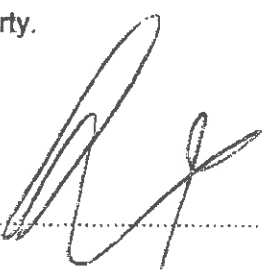
I went to Queenstown the next morning. My wife and I had planned this trip as we both have properties down that way. We stayed in a hotel for the weekend. I probably posted the cheques on the 10th, the day we went down there. I have looked at a map and think I posted them at the Queenstown Postshop or near there, on Camp Street. I had the piece of paper with me that had the account and post details on for Team Banksie 2010. I put the cheques into an envelope and addressed it myself but I cannot remember the address to which I posted them. I put them into a post-box at the post shop.

I received a phone call from Wayne after the cheques were posted, to say that the funds had been received. I don't know when this phone call was or who it was from. I am not aware of any receipt or acknowledgement from John BANKS or his associates.

I don't know the extent of the association between John BANKS and Kim DOTCOM. I don't know how they first met and I was not involved in their association so I can't describe it. I am assuming their first meeting was in April 2010, which was when John BANKS arrived at the mansion by helicopter but this is because I have been told about it. I was not working for Kim at this time.

The only times I saw them meet was on the 9th of June 2010 and at the fireworks night which was on New Year's Eve 2010/2011. At the fireworks night John BANKS was a guest there with his wife. Kim and his wife arrived after midnight as they had been up in a helicopter to watch the display. He met briefly with John BANKS and his wife after they arrived but I do not believe this was a "meeting" as such, he was a guest. John BANKS and his wife left not long after Kim and his wife had arrived. I did not actually see or hear them talking together. I was there with my kids.

I came to Kim's birthday party in 2011 but I don't recall seeing John BANKS there, but I was not there for the whole party.

Signature:  Signature witnessed by:



NZ POLICE
WITNESS STATEMENT CONTINUED

II-WS 03/12

- 4 of 5 -

IR No.

Statement of: Grant McKavanagh

I believe Kim would have generally communicated with John BANKS by calls. They could have possibly used text messages but I can't really see him and John BANKS texting.

I have read the newspapers in relation to the cheques and am aware of the interest that they have generated. I also received a phone call from Wayne about the cheques around the beginning of May 2012. He told me that they couldn't find them, that they were looking in April 2010 and that they needed the details of them. I told him that they were in June 2010, not April.

I received another call from Kim on the same day that Wayne called me. He asked me how the cheques would have shown up on the account statement. I hadn't spoken to Kim since I left [REDACTED]

We have chatted a few times since the beginning of May about the cheques as initially the actual cheques couldn't be found as the date of April was incorrect. I came to see him on the 5th of May 2012 at his Coatesville home address. We discussed meeting with the police about the cheques and arranged this for the 8th of May 2012.

I do not know John BANKS myself.

Everything in this statement is true to the best of my knowledge and belief. I make this statement knowing that it might be admitted as evidence for the purposes of a standard committal or at a committal hearing and that I could be prosecuted for perjury if this statement is known by me to be false or intended by me to mislead.

(Signed)

Statement taken and signature witnessed by:
(Signature & QID)

Signature: Signature witnessed by:



NZ POLICE
WITNESS STATEMENT
Statement must be disclosed
- 1 of 7 -

II-WS 03/12

IR No.

Statement of:	[REDACTED]	DOB:	[REDACTED]
Statement taken by:	<u>A.R. BICKNELL</u>		
		Date:	<u>16/05/2012</u>
		Time:	<u>12:10 PM</u>

[REDACTED]

I first met John Banks in 2001 during the Auckland Mayoralty campaign.

[REDACTED]



NZ POLICE
WITNESS STATEMENT CONTINUED

II-WS 03/12

- 2 of 7 -

IR No.

Statement of: [REDACTED]

Over the next couple of years John lost contact with a number of his former political colleagues. However I continued to catch up with him and talk politics. John was considering running for mayor again and sought my assistance. I said that I would help but we needed to address some of his weaknesses and for him to appear less abrasive. [REDACTED]
[REDACTED]

In 2007 John was re-elected as Mayor [REDACTED]
[REDACTED]

For the mayoralty campaign in 2010 I was the [REDACTED]
[REDACTED]

[REDACTED]

In 2010 my role was the [REDACTED] in John's mayoralty race. This involved me helping to develop the message for the campaign and assist on daily matters as they arose.

Signature: [REDACTED]

Signature witnessed by: [REDACTED]

P442

Alan Bennett



NZ POLICE
WITNESS STATEMENT CONTINUED

IL-WS 03/12

- 3 of 7 -

IR No.

Statement of: [REDACTED]

My tasks included a lot of policy drafting. [REDACTED]

I also worked on the set up of the website and managed the site content. I worked on the polling analysis, interpreting a lot of data and looking at when and where to expend effort in this area.

I did quite a bit of work around direct mailing. Direct mailing is letters addressed to specific people, personalised for area or demographic and sent to people selected off the electoral role.

The letters would include John's vision, policy, something specific to area, information about how to help and respond with support to John. The general idea being that the person would vote for John and/or support his campaign in some way.

In regards to the response aspect of the letters, on the back of the letters there is a response device for how people can help John. For example as a volunteer, help putting up signs, have a sign on their property, human hoardings, distributing pamphlets, join an Email list, host a function or meeting or make a donation.

To make a donation a person could access the campaign website, send a cheque to the Private Bag or make a deposit via credit card or internet banking or at a bank branch, into the campaign account which was published on the website, in the direct mail response device, and in our mass emails.

For this type of strategy we only expect about a 1% response rate reply, which is typical of grassroots level responses.

I had no involvement in fundraising outside of the direct mailing and the online campaign. I managed weekly/bi-weekly emails to the supporters list of around 4000 people. Again donations would be sought periodically through these emails.

Signature: [REDACTED]

Signature witnessed by: [REDACTED]

P443



NZ POLICE
WITNESS STATEMENT CONTINUED

II-WS 03/12

- 4 of 7 -

IR No.

Statement of:

I had no role in collecting donations outside the above. I had no one-on-one contact seeking donations. There were maybe some emails where I referred people to the website but no contact with people with high net worth.

I was a volunteer on the campaign and did not receive any remuneration for campaign work.

I was not the campaign manager. The difference being that a campaign manager is someone who has the authority to write cheques, which I didn't have.

In regards to donations received during John's mayoralty campaign I had no knowledge of the donations coming in. [REDACTED] was the Treasurer who managed expenses and donations, keeping the books, accounts for the campaign and monitoring the in/out flow of funds.

My interest of the campaign's finances was for cash flow rather than donations, as I needed to be aware there was money available for the various initiatives we wanted to engage in.

My involvement with [REDACTED] related to cashflow availability.

Signature: [REDACTED]

Signature witnessed by:

P444



NZ POLICE
WITNESS STATEMENT CONTINUED

II-WS 03/12

- 5 of 7 -

IR No.

Statement of: [REDACTED]

During the campaign we held meetings at a variety of different locations, including at the Mayor's office (as John was Mayor at the time), and at John's business offices [REDACTED]

During the campaign documents were kept on each individual's computers or laptops. I have copies of the direct mail letters that were sent out. There were three major initiatives, two where up to 70000-80000 letters were sent out, and another of around 40,000. Once in June 2010 which requested support and/or donations, one a couple of days before voting papers went out (no response device for donations), and a final reminder letter to people we thought who had not voted about 7-10 days prior to polling closing (again no request for support/donations).

There was no central network for storing documents, people worked from their own computers. My direct mail, policy, and polling work was sometimes emailed between people, though we also worked off hard copies quite often to prevent leaks.

[REDACTED]

I do not know about any specific radio donations as I only worked on developing relevant messages, not booking time slots. I did meet with the Radio Bureau very early on in the campaign to discuss radio costs once but that particular plan came to nothing. This was around March 2010.

I have been shown a copy of the Electoral Donations form submitted by John Banks on 9th December 2010. I am aware of the form but have not seen it before. I do not recognise the handwriting of each of the donations written down but I can confirm that I recognise the signature of John Banks on the bottom of the form.

I have no knowledge of a specific donation of \$15690.00 for radio advertising.

Signature: [REDACTED]

Signature witnessed by: [REDACTED]
P445

Alison Birchall



NZ POLICE
WITNESS STATEMENT CONTINUED

II-WS 03/12

• 6 of 7 •

IR No.

Statement of: [REDACTED]

In regards to the Local Electoral Act 2001 I am aware there is a campaign spending limit of around \$585000 over the last 3 months for the Mayoral campaign and there are bylaws regarding where signs can be placed, timings, authorisation statements etc.

I was not aware of any donations coming from Kim Dotcom to John Banks. The first I ever knew of Kim Dotcom was when I saw him in the paper in early 2011 in relation to an expensive home he wished to purchase.

I have no knowledge of any donation made by Sky City to John Banks in the 2010 mayoral campaign.

I was not involved in collecting donations or fundraising, so I do not know who was specifically involved, aside [REDACTED]

I never saw John Banks receive any donations when I was with him over the course of the campaign.

I would regularly communicate with John by text, phone and email. The nature of our contact was that I would usually find it easier to speak with him by phone or in person.

[REDACTED] of
There was never any kind of briefing from John to myself about recording donations. It was not a responsibility of mine during the campaign, and I never saw John give a briefing to anyone else over recording donations.

The PO Box for the campaign was Private Bag 93516, Takapuna

Because my role on the campaign was centred around message, voter outreach and voter turnout, I did not have to focus on fundraising rules, rather, I needed to be aware of the laws, but mostly focused around authorisation, campaign spending, signs, and communications.

Signature: [REDACTED]

... Signature witnessed by: Robert Beithell
P446



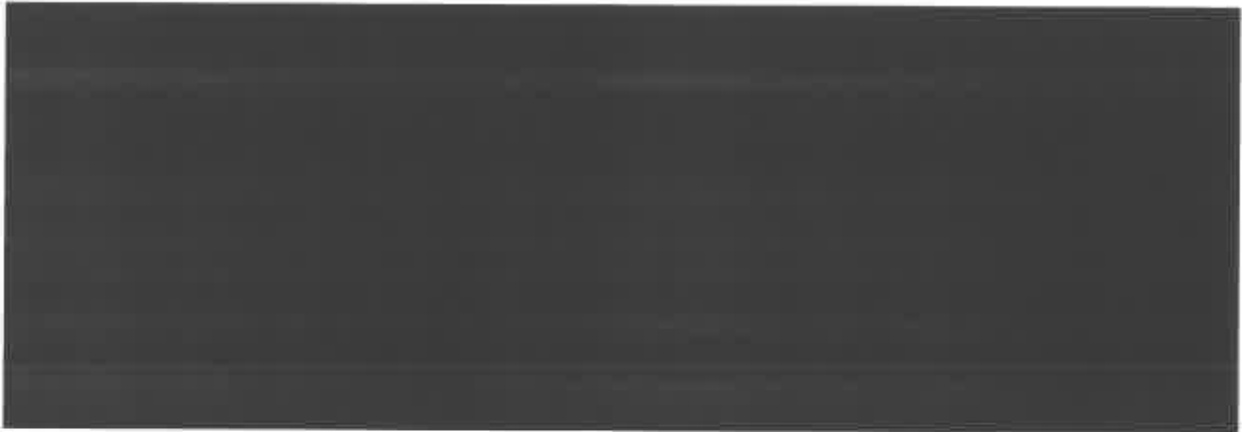
NZ POLICE
WITNESS STATEMENT CONTINUED

II-WS 03/12

- 7 of 7 -

IR No.

Statement of:



Everything in this statement is true to the best of my knowledge and belief. I make this statement knowing that it might be admitted as evidence for the purposes of a standard committal or at a committal hearing and that I could be prosecuted for perjury if this statement is known by me to be false or intended by me to mislead.



Statement taken and signature witnessed by:
(Signature & QID)

Alison Mitchell ABJ409

ATT00001

Hi Adam,

Please find attached two files as requested.

1. "Reverse Side June GM" - which was a common response device for all of the letters sent out
2. "North Shore June GM" - which is the North Shore focused version of the June direct mail salvo that was posted out.

The letters GM are a reference to "golden master" which means the final version that was sent out and not modified further.



REVERSE SIDE JUNE GM

Here's why you should support John Banks

John Banks has the experience and leadership when you need it most. For example, he has helped solve the leaky homes crisis with Prime Minister John Key and will apply those same values to making sure the new single council for Auckland becomes a social and economic success for you.

As a Member of Parliament for 18 years, John helped families with problems to reach their goals. **He is a former Minister of Local Government,** so he understands how the machinery of Wellington can be harnessed to work for you locally. **As a former Minister of Police** he knows how to deliver you a safer city.

Banksie was an award winning talkback radio host, he listens to people and cares about their concerns.

As a two term Mayor of Auckland City, John Banks knows the new Auckland Council represents an opportunity to restore local decision-making to true grassroots levels by empowering the new local boards representing your community. It's also a way to deliver savings to ratepayers through efficiencies and better decision-making. After all – why do we need seven separate water retailers plus a wholesaler for Auckland?

John is a pioneer in the hospitality industry. For thirty years he was a partner in the highly successful Tony's Restaurant Group, with a key role in building and restoring numerous neighbourhood eateries and taverns. **John knows how to invest in Auckland** to make it a prosperous and exciting place, while keeping your rates affordable.

You might have known him as a local councillor, a businessman, a Member of Parliament, a Cabinet Minister, a Mayor, a mentor or a supporter of charities. One thing has always been the case with John - no matter what he's been doing - he is a straight talker who says what he means and does what he says.

John has come from "the school of hard knocks", which means he knows the value of money. **He's a family man,** married to Amanda (a pharmacist) with three children, a strong supporter of charitable service clubs, a Paul Harris Fellow in Rotary International, a life member of the Lloyd Morgan Lions Club Charitable Trust, and a campaigner for animal rights. John has been awarded the Queens Service Order for Public Service.

With his vision, experience and humanity John Banks can make Auckland a Great city.

You can help Banksie become Mayor for a Greater Auckland by filling out the form below.

Help John Banks become Mayor for a Greater Auckland

Post back in the pre-paid reusable envelope provided to: Team Banksie 2010, Private Bag 93516, Takapuna 0740

YES! I'd like to help John Banks win the Auckland Mayoralty!

I'd like to make a financial contribution (*cheques made out to Team Banksie 2010*)

☐ \$250 ☐ \$100 ☐ \$50 ☐ \$25 ☐ \$10 ☐ other \$ _____

You can also make a credit card donation via www.johnbanks.co.nz or direct credit to Westpac 03-0259-0304767-00

I would like to help the campaign by:

- ☐ Providing volunteer services like putting up signs or helping at meetings
- ☐ Organising a public meeting with a community group or club I'm involved with
- ☐ Receiving emails or other communications from John Banks

Name _____

Phone _____

Email _____ (this is helpful for the campaign!)

Postal address _____

NORTH SHORE JUNE GM

As Auckland moves to become one council, it's important to me your community gets the attention it deserves. Your support for my Mayoralty campaign will deliver these benefits to the North Shore:

I will push for a new harbour crossing and better ferries

Many North Shore residents are frustrated with traffic congestion due to the area's growth. I will use my close relationship with the John Key National led Government to lobby hard to deliver you a tunnel harbour crossing as a priority, including rail, so the North Shore can have quality public transport choices.

My vision is to have the best ferry network in the southern hemisphere. This means enhancing North Shore's ferry connections, integrated ticketing, and improving Stanley and Devonport wharves. We should expand Birkenhead services and consider Beachhaven and Takapuna for future connections.

You deserve to have your rates kept down

Many of us are concerned about rates rises and we want careful spending in a Greater Auckland. I will make sure you get the benefits of the savings and efficiencies we expect from a single council. I have always kept council spending down, with rates rises of **no more than 2.0% for the last two years**. This compares with **my Labour Party opponent who hiked rates by as much as 8.3% when he was the councillor in charge of Manukau City's annual budget**. That is a worry for people who need to budget!

You get protection for the character of the North Shore

North Shore residents tell me how proud they are of the character of their suburbs and their heritage values. As Mayor for the new Auckland, I will continue to nurture the uniqueness and local character of your suburbs, as well as promoting the future plans for business areas like Takapuna.

I have a proud record of recognising heritage, from investing in the Auckland Art Gallery and Pah Homestead, to protecting unique buildings, and working closely with heritage groups to ensure heritage zones have controls to stop predatory demolition. I will also ensure your local board can make decisions, support local events and promote local identity. These are the values and vision I bring to a new Auckland.

Thank you for your support, and kind regards

PS – Please turn over and use the response form to help deliver a Greater Auckland.

FORMAL WRITTEN STATEMENT

[REDACTED] states

- [REDACTED]
7. I became involved with John Banks in assisting with campaigning during 2001 where I met John Banks in Remuera and I also met a [REDACTED] who was involved in 2001.
- [REDACTED]

9. I've helped in all the major campaigns since 2001. The one Super City Election Mayoral Campaigns and also with the Epsom / Act Election.
10. My role really is the Treasurer. I do budgets, expenses, spending cap, cashflow, costs and true costs for the last three months of the campaign. The major thing we are concerned about is the spending cap for this Super City Election which was

\$580,000.00 including GST that we were able to spend in the last three months of the campaign.

11. In charge of the bank account on one of the signatures on the [REDACTED] Bank Account which is [REDACTED] and we have a savings and cheque account in the name of Team Banksie. The savings account is currently still open and has an amount of \$500.00 in it. The cheque account is closed. [REDACTED]

12. Most of the meetings during the campaign were run in the Mayoral Chambers in the Town Hall, usually we had meetings around morning tea time and those ran between 30 minutes to a 2 hour period. I couldn't attend them all due to work commitments. I was also overseas for the whole month of September 2010 so missed all information in the month leading into Election Day.

13. John Banks was very strict about expenses; an example of this is that morning teas that were provided to our campaign at the Town Hall were always paid out of campaign expenses. He didn't want the perception that he wasn't paying for anything and he was very strict about our expenses and how they were dealt with.

14. There was a large team involved in the Campaign, including [REDACTED] who volunteered for John; she was an experienced fundraiser [REDACTED] and a large network of potential donors to approach. [REDACTED]

15. The largest campaign donor was John Banks who donated \$80 - \$90,000.00 of his own money.

16. Everybody on the campaign was a volunteer. [REDACTED]

17. I have been shown the Candidate Booklet for the Super City Elections by Detective Sergeant Tim Traviss. I have never seen this document before. I have never read the local Electorate Act 2001.
18. We had a legal firm that advised us on the legislation behind donations and we took advice from them. [REDACTED]
[REDACTED] Early in the campaign we learned that Len Brown, the main opponent in the Mayoralty race, was channelling the majority of his donations through a secret trust. Our advice was that was not in the spirit of Local Body Electoral law, and that we should continue to report in the spirit of the law as we had done over many campaigns, and disclose individually.
19. We initially drew up people to approach for donations; these included people on the NBR Rich List. Our donation target was set [REDACTED] 10 donations of \$25,000.00. We knew we would need to raise in the vicinity of a million dollars, which we considered ridiculous that candidates for a local body election should need to do this.
20. In order to assist people in donating we ordered booklets of bank deposit slips from Westpac and these deposit slips were basically handed out to all campaign team to hand out to people who could deposit direct to our bank account at any time.
21. We also took donations via the website, direct mail was also involved with over 200,000 pieces of mail to households, these Direct mail letters encouraged donations direct to our bank Account and our bank Account number was prominently displayed. I was in charge of the post box which was a Private Bag based at Takapuna Post office. I collected mail sacks regularly, much of it incorrectly addressed mail..but also many donation replies. When it came to collating the Return, I added all the small donations received (nearly 500 individual ones from memory) and declared in the return as an amount received. We didn't need to do this, but wanted to show we had received donations from all over Auckland for small amounts.
22. When the Electoral Expenses Form was filled out we relied on source documents and I had in a folder. The source documents were used to fill out the Expense Forms and obviously the bank statement was used for the donations. I have handed [REDACTED]

this folder to Detective Sergeant Traviss. The documents are contained in the orange folder.

23. [REDACTED] received some donations that were anonymous and she would not tell me who they came from. Everything was notated to a bank statement, and these are in the folder.

24. John Banks to my knowledge has never seen the bank statements and he asked not to know. He never wanted to see the bank statements and he did not want to know where the money came from.

[REDACTED]

is my handwriting on the form; I filled out all expenses using the source documents and the bank statement. I then went to John Banks who signed it and I delivered the Return personally to the Electoral Officer

26. My understanding of what 'anonymous' is, as it relates to donations given during this campaign, is if a person had donated money but they wanted to stay anonymous then it could remain anonymous. We never told Banks where the money came from as he was simply not interested. His main concern was having the funds in the Bank to pay for approved expenses, and the risk that he & Amanda could be left bridging a big money gap. He would tell us off if we ever mentioned donations as he didn't need to know, just the bank balance as mentioned.

27. My understanding of 'anonymous' comes from legal briefing that we have had. I have never read the Act. I have never read the definition of 'anonymous' in the act. We read the meaning of anonymous on the Donation part of the Expenses return & were very comfortable we had completed the form thoroughly.

28. John Banks was always thanking people and one of his strategies was to thank people for donating even if they hadn't and I guess it was just to remind them that we were seeking donations.

29. I did not know of Kim Dotcom in 2010 and only became aware of Kim Dotcom after his arrest and [REDACTED]

[REDACTED] I was surprised at the Campbell Live show advising that Dotcom had donated to the Campaign. [REDACTED]

Subsequent 'reporting' in the Herald showed copies of the cheques as coming from a company called Megastuff, not Dotcom, and that they had been banked in Queenstown. All news to me.

30. I do recall that we received five lots of \$25,000.00. Most of which I still do not know who they came from to this day.

31. With regard to the Sky City cheque the person who signed the cheque was from a legal position at Sky City and I recall receiving the cheque I believe it was in the post and I believe that I rang this person who I knew, worked in the legal department in Sky City and asked them whether they wanted to be either anonymous or have their name on the Donations Ledger and the advice I was given from them was that they wanted to remain anonymous. They did ask for an acknowledgement for their records, and I sent them 1 from the Campaign Team. The donation remained that way through to the Return stage. I read in the Herald after the returns were published (Herald cutting I handed to you) that Sky had donated to both main candidates, which I considered fine if they wanted to now be public about a donation to our Campaign. We had lost the mayoralty, and John had no intention to return to Public life, so we just moved on.

[REDACTED]

33. I never went to Sky City and met with anyone to receive the cheque.

34. [REDACTED]
donations were posted to our Private Bag at Takapuna, some cheques I deposited through Westpac drop boxes in Queen Street. There was no campaign Office. All meetings were at the Town Hall. John banks was incumbent mayor, working 18-20 hour days , 7 days a week on the Campaign trail, he was exhausted, it wasn't an easy Campaign.

35. Facebook and Twitter were run by the Young Nats.

[REDACTED]

36. I as the Treasurer very rarely wrote receipts and I took all the donations for the Expense Form from a bank statement and the expenses obviously from a source documents.
37. When we took the Expense Forms and Donations Forms to John Banks to sign he asked, "Can I rely on you to make sure it is true and correct" and I said, "yes" and his only other concern was to make sure that the document had been filed by the deadline. He explicitly said that he did not want to see a bank statement and he was also quite conscientious and made the comment to say that it was important that all expenses during the course of the campaign were clear in the document and he was very particular about that.
38. I have no knowledge of the company Megastuff and I did not know that was associated with Kim Dotcom at that time.

[REDACTED]

40. Someone on the team said something with regards to advertising and this is with regards to the amount of \$15,690.00. I put this figure in both the expenses and donations forms. I ^{recently} ~~later~~ found out the sum was actually less than we declared because John Banks is so particular about expenses and having heard this come up in a meeting I was quite conscientious to put it down so it was declared. We were really trying to be over careful.

[REDACTED]

42. If John Banks got a donation he would give it to me in an envelope these were generally small ones from friends /neighbours. I believe the person who gave us legal advice was [REDACTED]

43. With regards to the \$15,000.00 donation and the deposit slip from Sky City that is my handwriting on the deposit slip.

[REDACTED]

44. With regards to the two \$25,000.00 donations that I now know to be from Kim Dotcom related entity, neither handwriting on the deposit slips are mine.

45. As I previously said we had books of deposit slips and those were handed out to staff during the course of the campaign and they would have possibly been given out to those people who were donating money at the time. That is my signature as an assignee on the bank form with [REDACTED] John Banks was also a signee of the cheque accounts. John Banks also very particular about expenses and approve expenses.

46. I was the only person to have access to the user name and password for the [REDACTED] Bank account and no one else. John Banks had no knowledge of the user name or password for the bank account and was adamant that he did not want to see a bank record and never viewed them. I recall thinking at the beginning of the campaign how computer illiterate John was...he was what I'd term "old school" and did most things through a PA.

[REDACTED]

48. Everything in this statement is true to the best of my knowledge and belief, and I made the statement knowing that it may be admitted as evidence for the purposes of a standard committal or at a committal hearing, and that I may be prosecuted for perjury if the statement is known by me to be false and is intended by me to mislead.

Formal Written Statement

- Summary Proceedings Act 1957, section 162 -

I, [REDACTED] State:

1. My full name is [REDACTED]
2. This statement is made in addition to my initial statement made on 23/05/2012.
3. [REDACTED]
4. [REDACTED]
5. At the start of the campaign, John BANKS was quite clear with us, the campaign team, that he did not want to know about individual contributions/donations, either mentioning cheques received or amounts deposited directly into the campaign bank account.
6. He didn't want to see any bank statements.
7. During the campaign John BANKS would often thank people for their support.
8. This effectively covered off if they had supported him and reminded them that they could support him if they wished.
9. This is how the campaigns have always been run.
10. As the Treasurer when a contribution was received, I would immediately check it against our cash-flow to keep an eye on how our campaign fund was going.
11. I wasn't that worried about whether a contribution was anonymous or not at this point. I was more concerned that there were enough funds to cover committed expenses.
12. I had online access to the bank account so I could see the daily transactions.
13. When the monthly statements arrived I would check them and make my notes re the donations.

FORMAL WRITTEN STATEMENT

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14. At the end of the Banksie 2010 Campaign for the Mayor of Auckland, a Return of Electoral Expenses and Electoral Donations schedule was filled out by me on behalf of John BANKS as the candidate.
15. This schedule was completed by myself [REDACTED]
16. [REDACTED]
17. This is the fourth (4th) Campaign I have run with John BANKS and I compiled the schedule using the same rules and concepts that we have used for the previous returns.
18. The schedule sets out all the expenses incurred during the last 3 months of the campaign and also the donations received during the campaign, and lists the name of the contributor or lists them as anonymous.
19. I have always erred on the side of caution and if not sure would list a donation as anonymous, as this is what the majority of donators would want.
20. We also erred on the side of caution with declaring all donations - whilst only required to report any donation over \$1000 we included all amounts received no matter how small.
21. Where we received lots of small donation amounts, we compiled these together and banked them as one lump sum.
22. This relates to the declared donation of \$57171 which was made up of 408 individual donations under \$1000.
23. These amounts were identified on the bank statement with the hand written notation 'direct mail donation'.
24. These lump sum figures on the bank statement will not always appear on the donations schedule as they are made up of smaller donations.

FORMAL WRITTEN STATEMENT

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25.

26.

27. [REDACTED] list of wealthy individuals who she would contact to arrange donations.

28.

29. [REDACTED] had various dealings with these persons over the years and would know whether they wanted to be anonymous or not.

30. This was sometimes based on previous campaigns where they may have asked to be anonymous and we have just continued with that.

31.

32.

33.

34. Donations were either received directly into the bank account or by cheque.
35. Where cheques were received, they were always in sealed envelopes.
36. Sometimes they would have a compliment slip with them or perhaps a deposit slip that would have been obtained from the campaign.

FORMAL WRITTEN STATEMENT

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37. We gave out hundreds of deposit slips during the campaign. They simply set out the account name and number of the campaign.
38. On the bank statements for the Banksie 2010 account would often be handwritten notations, written on two separate occasions.
39. The initial entry would be my thoughts on whether the donation was anonymous [REDACTED] the second entry would be either that the deposit was identified as a particular contributor or not and decide if the donation was to be anonymous or not.
40. Where a particular donation was identified as coming from a particular person, that donation was not always listed as from them because the donor may have been known to [REDACTED] or myself but not John BANKS.
41. Therefore the donor remains anonymous to John BANKS.
42. The other reason is that the donor may have requested to remain anonymous.
43. The decision as to whether a donation was anonymous or not rested with myself [REDACTED]
44. This approach to anonymous donations is how things have always been done in the four (4) campaigns that I have been involved with for John BANKS.
45. We did look at using an anonymous trust the same as Len BROWN did, but we preferred to be up front with our donations.
46. We did receive some legal advice during the campaign from [REDACTED]
[REDACTED] who had provided legal advice on previous campaigns.

FORMAL WRITTEN STATEMENT

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47. This advice was more around the new revised expenses spending cap allowed due to the election being for a 'Supercity', rather than a normal local body campaign.
48. [REDACTED]
49. I believe that [REDACTED] would have spoken with persons on her contributors list and advised them on how to make donations anonymous. This is just how it's done.
50. We used the definition of anonymous that is written at the top of the Electoral Donations form as guidance.
51. [REDACTED] also helped with legal support which he was good at.
52. When the Return of Electoral Expenses and Electoral Donations form was signed by John BANKS, he and I met for a coffee.
53. We spent more time on the expenses side as this was John's main concern that we hadn't gone over the allowed limit.
54. The expenses were not allowed to be over \$580,000 for the last 3 months of the campaign. Prior to this there is no spending cap.
55. John BANKS checked with me that everything was true and correct on the donations form and signed it.
56. He did not ask about anonymous entries as he did not wish to know who had contributed to his campaign. I think it is a political thing for him not to know.
57. John did make mention of the fact that we had nearly reached the target of reaching \$1million in donations.

FORMAL WRITTEN STATEMENT

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58. John is a smart guy and he puts a lot of trust in his friends and colleagues to do the job assigned them.
59. When I stated that the accounts for expenses and donations were in order, he would accept that.
60. This was the 4th campaign I had done with John; he was strict in his procedures and had trust in his people/team.
61. However there is a possibility that there are a couple of mistakes on the returns form.
62. In regards to the \$15000 cheque that was received from Sky City, I initially thought it had been posted to us. This is likely because it was in a sealed envelope.
63. If it didn't come from the post, then it would have come from one of the team,
[REDACTED]
64. [REDACTED]
65. I believe there may have been a compliment slip with it as I recall calling Sky City to acknowledge their donation and to see if they wanted a receipt.
66. During the phone call the topic of whether they wanted the donation listed as anonymous or not came up, to which I recall they said they did.
67. I spoke with someone in the legal section.
68. It was likely the person who had signed the cheque or had put their name on the compliment slip.
69. I believe this was likely done on the same day we received the cheque.
70. [REDACTED]
71. [REDACTED]

FORMAL WRITTEN STATEMENT

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72. If John BANKS had been given the envelope, he would have given it to one of his staff to deal with, who would have in turn given it to me.
73. Always worked this way so John didn't know the amount of a donation.
74. My recollection of the phone call with Sky City was that they were fine with the donation being anonymous so it was listed as such because, as I said earlier, I erred on the side of caution.
75. This was my decision, not anyone else's. I could have easily put 'Sky City' and it wouldn't have made any difference.
76. After the complaint was made in 2012, John BANKS called me and simply said that the Police had been in touch and that we would wait and see.
77. I think he was advising me that I may be contacted by the Police.
78. He did not advise me to say or do anything or to lie for him.
79. I think that John would only have known about a small percentage of the donations that were listed as non anonymous, meaning that there were a number of named donations that he wouldn't have known about.
80. I have since reviewed the previous Expenses and Donations Returns for the previous campaigns and during the 2001 Auckland Mayoral Campaign all donations were listed as 'anonymous'.
81. This could have essentially been done for the 2010 campaign also as John was not aware of the majority of donations made, but this wouldn't have been in the spirit of the Electoral Act.
82. In addition to this statement I have also viewed a spreadsheet containing the list of campaign donations which has been cross referenced with my

FORMAL WRITTEN STATEMENT

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comments from the bank statements. I have provided explanations where asked for in regards to a number of the donations.

83. I have signed a copy of the spreadsheet with my added explanations.

Everything in this statement is true to the best of my knowledge and belief, and I made the statement knowing that it may be admitted as evidence for the purposes of a standard committal or at a committal hearing, and that I may be prosecuted for perjury if the statement is known by me to be false and is intended by me to mislead.

signature

Date:

FRANICH, Mark

From: Bruce Thomas [REDACTED]
Sent: Friday, 27 April 2012 12:47
To: BENEFIELD, Mark
Subject: FW: Letter
Attachments: Letter 24 April 2012.pdf

Mark, the original complaint.

From: Carlie Bromley [mailto:[REDACTED]]
Sent: Tuesday, 24 April 2012 3:33 p.m.
To: Bruce Thomas
Subject: Letter

Good afternoon

Please find attached a letter from Trevor Mallard. A hard copy is in the mail today.

Kind regards

Carlie

Carlie Bromley
Office of Trevor Mallard
MP for Hutt South

[REDACTED]

redalert.org.nz | facebook.com/trevor.mallard1 | labour.org.nz | twitter.com/trevormallard



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FRANICH, Mark

From: Bruce Thomas [REDACTED]
Sent: Friday, 27 April 2012 12:35
To: BENEFIELD, Mark
Cc: Dale Ofsoske (External)
Subject: FW: Complaint under Section 138 of the Local Electoral Act 2001(LEA)
Attachments: SKMBT_C650012042711100.pdf

Dear Mark Benefield,

Please note the attached letter to Trevor Mallard regarding a complaint he made in relation to a 2010 Auckland Council mayoral electoral expenses and donations return submitted by John Banks. In accordance with Section 138 of the Act I am reporting the complaint to the NZ Police.

As advised on the phone, Dale Ofsoske was the Electoral Officer for the 2010 elections. He will be able to assist you as well.

Thanks

Bruce Thomas
Electoral Officer | Public Information Manager

Auckland Council | Level 16 | Civic Administration Building | 1 Greys Avenue | Auckland
[REDACTED]

Visit our website: www.aucklandcouncil.govt.nz



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FRANICH, Mark

From: BENEFIELD, Mark
Sent: Tuesday, 19 June 2012 13:53
To: READ, Peter
Subject: FW: Peter Marshall

FYI

From: BEARD, Scott
Sent: Tuesday, 19 June 2012 13:45
To: BENEFIELD, Mark
Subject: FW: Peter Marshall

FYI

Scott Beard | Detective Inspector | Auckland City District CIB |(FBINA242)| ☎ DDI 09 3026788 or extn 95788 | MOB: 64 274986051 |
scott.beard@police.govt.nz | Cook & Vincent Street | Private Bag 92 002 Auckland 1021 | New Zealand

From: Lisa Prager [<mailto:l.pra@xtra.co.nz>]
Sent: Tuesday, 19 June 2012 13:42
To: WATSON, Kim
Cc: Dale Ofoske; trevor.mallard@parliament.govt.nz; BEARD, Scott; Bernard.Orsman@nzherald.co.nz; claire.trevett@nzherald.co.nz; nicolas.jones@nzherald.co.nz
Subject: Att: Peter Marshall

To: Police Commissioner:
Peter Marshall
New Zealand Police Force
Wellington

Dear Sir,

I am one of the original complainants regarding John Banks and the alleged electoral fraud.

My original complainant was acknowledged by Detective Inspector Mark Benefield Field Crime Manager Auckland City District 27/4/2012

I spoke to him in early in June and then again today.

In our conversation, he told me that the information in todays New Zealand Herald (page A7) "not available on line" was a load of rubbish, suggesting that Mr Banks had been spoken to.

At the end of the conversation he admitted that the Police were having trouble getting persons of interest and their lawyers to a meeting with police.

I am most upset and concerned that this issue in which a complaint of Serious Fraud and Corruption has been made about an MP whose position in our New Zealand Parliament may lead to the sale of millions of dollars of public assets is "NO SMALL ISSUE!"

If the Police do not have the power to investigate this very serious matter. Then why have the police not turned this issue over to the Serious Fraud Office.

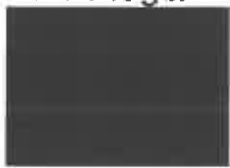
I have spoken to Mr. Graham Gill at the Serious Fraud Office and he has explained that "No crime has been committed" because the police have not been able to complete their investigation. Our conversation sounded like some sort of absurd comedy, where the police can catch a common criminal, but a Ex Mayor can gets away scot free!

The people of New Zealand deserve to know if Mr Banks has committed a crime, given that his vote holds the balance within our NZ parliament.

If the Police allow this investigation to go unresolved before parliament votes on the NZ Assets Sales, they will be implicated in allowing a grand injustice and a national fraud to occur.

Please use your power to see Justice is done and that the police are not played like a piano by the ex- minister of Police and his lawyers.

Your most seriously and sincerely
Lisa Prager



FRANICH, Mark

From: Penny Bright [waterpressure@gmail.com]
Sent: Monday, 25 June 2012 18:01
To: Penny Bright
Subject: 'OPEN LETTER TO THE GOVERNOR-GENERAL' - Please consider using your 'Reserve Powers' to refuse Royal Assent to the Mixed Ownership Model Bill (if passed).
Attachments: CORRUPTION REALITY CHECKLIST - NEW ZEALAND Whiz's version A5.doc

25 June 2012

(Just had it confirmed from the Table Office Parliament - that the time taken from Third Reading to Royal Assent can be done in the same day - or can take up to one week.)

----- Forwarded message -----

From: Penny Bright <waterpressure@gmail.com>
Date: Mon, Jun 25, 2012 at 5:12 PM
Subject: 'OPEN LETTER TO THE GOVERNOR-GENERAL' - Please consider using your 'Reserve Powers' to refuse Royal Assent to the Mixed Ownership Model Bill (if passed).
To: [REDACTED]
Cc: Penny Bright <waterpressure@gmail.com>

(I apologise for the lateness of this email. It unfortunately involved more work than originally anticipated).

My intention was to try and get it to the Executive Council as an 'Item of Business' for the consideration of the Governor-General.

Please can you forward this correspondence to the Governor-General at your earliest opportunity?

Thank you.

Penny Bright

25 June 2012

'OPEN LETTER TO THE GOVERNOR-GENERAL' - The Rt Hon Sir Jerry Mateparae

Please consider using your 'Reserve Powers' to refuse Royal Assent to the Mixed Ownership Model Bill (if passed).

Dear Governor-General,

I understand that the Executive Council, comprising of all Ministers of the Crown, meets today, 25 June 2012 at Parliament at 4pm, and you will be presiding over this meeting.

<http://gg.govt.nz/content/executive-council>

The Executive Council is the highest formal instrument of government. It is created by the Letters Patent that also establish the Office of Governor-General and is part of the executive branch of government that carries out formal acts of government.

The Executive Council comprises all Ministers of the Crown, whether those Ministers are inside or outside Cabinet.

The Governor-General presides over, but is not a member of, the Executive Council."

I wish this letter to be included as a urgent 'Item of Business' for this meeting of the Executive Council, whose members have sworn the following oath:

<http://www.legislation.govt.nz/act/public/1957/0088/latest/whole.html#DLM316134>

19 Executive Councillor's Oath

(1)The oath in this Act referred to as the Executive Councillor's Oath shall be in the form following, that is to say:

I,..., being chosen and admitted of the Executive Council of New Zealand, swear that I will to the best of my judgment, at all times, when thereto required, freely give my counsel and advice to the Governor-General for the time being, for the good management of the affairs of New Zealand. That I will not directly nor indirectly reveal such matters as shall be debated in Council and committed to my secrecy, but that I will in all things be a true and faithful Councillor. So help me God.

I understand that as the Governor-General of New Zealand, you do have the power to refuse 'Royal Assent' for legislation, although, to date, this power has yet to be used.

<http://gg.govt.nz/role/powers.htm>

In a very few instances, the Governor-General may exercise a degree of personal discretion, under what are known as the "reserve powers." The most important of these is the appointment of a Prime Minister following an election, or accepting the resignation of an incumbent Prime Minister.

By convention, the Governor-General will always appoint as Prime Minister the person who has been identified through the government formation process as the person who will lead the party or group of parties that appears able to command the confidence of the House of Representatives. The Governor-General expects that there will be clear and public statements that a political agreement has been reached and that a government can be formed that will have the support of the new Parliament. The Governor-General abides by the outcome of the government formation process.

Other reserve powers are to dismiss a Prime Minister, to force a dissolution of Parliament and call new elections, to refuse a Prime Minister's request for an election, and to refuse assent to legislation.

These powers to act without or even against ministerial advice are reserved for the most extreme situations and with the exception of the appointment of a Prime Minister following an election, no New Zealand Governor-General has ever needed to use them.

In my considered opinion, as an 'anti-corruption campaigner', the passage of the 'Mixed Ownership Model Bill', would constitute a 'most extreme situation', and Royal Assent should be therefore refused for the following reasons:

1) Although the National Party 'campaigned' on asset sales during the 2011 General Election, they only received enough votes to return 59 out of 121 Members of Parliament.

(Irrespective of the number of votes cast by electors - it is votes cast in the House which determine the passage of legislation.)

59 National MPs out of 121 is NOT a majority - so National's claimed 'mandate', has arguably no basis in fact.

No majority - no mandate.

2) If National genuinely believe that the majority of New Zealanders support the 'partial privatisation' of key State assets, then why not support the confirmation of this belief through a public referendum on this matter?

<http://www.stuff.co.nz/national/politics/7162589/Asset-sales-set-to-pass-last-hurdle-this-week>

3) As it stands, provided the 3 Maori Party MPs vote against the Mixed Ownership Model Bill at its third reading, National are dependent on the pivotal votes of United Future's Peter Dunne, and the ACT MP for Epsom, the Hon. John Banks.

Herein lies the problem:

a) Complaints have been lodged with Police, alleging electoral fraud against the Hon. John Banks.

I know, because I, along with fellow 'community activist', Lisa Prager, am one of the complainants:

On Fri, Apr 27, 2012 at 3:55 PM, BENEFIELD, Mark <Mark.Benefield@police.govt.nz> wrote:

This email is to formally acknowledge your complaint under the Local Electoral Act 2001 (LEA) in respect to the 2010 Mayoral Election and allegation of a false return made by the now Hon John BANKS in respect of his returns under section 109 LEA.

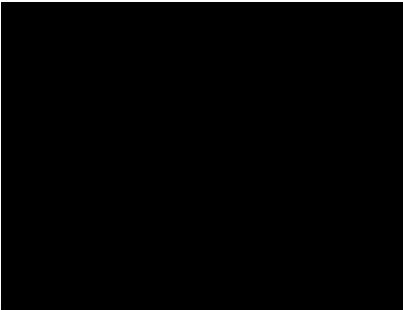
For future reference File 120427/9334 refers.

At this point in time I will be your point of contact.

Regards

Detective Inspector Mark Benefield

Field Crime Manager Auckland City District



However, it is unclear if the Police have even questioned the Hon. John Banks about this alleged electoral fraud, although the complaint was made on 27 April 2012, almost 8 weeks ago, as per this recent correspondence with the Auckland District Commander of Police, Superintendent Mike Clements, dated 20 June 2012:

"LATEST DEVELOPMENTS WITH POLICE / CORRESPONDENCE WITH AUCKLAND DISTRICT COMMANDER SUPERINTENDENT MIKE CLEMENTS AND LISA PRAGER:

Has John Banks yet been questioned by Police over alleged electoral fraud? We still don't know.

Att: Police Commissioner:
Peter Marshall
New Zealand Police Force
Wellington

To: Mike Clement,
Superintendent
District Commander : Auckland City District

Dear Mike,
Thanks you for your email below, however this is exactly what Detective Inspector Mark Benefield, Field Crime Manager, Auckland City has been saying since my original complaint 27/4/2012.

As a complainant I feel that the Police are behaving in an in-genuine way. I feel that the gravity of this particular situation is not being respected. If this was a burglary or murder investigation and I was able to provide details of a possible suspect, I do not believe that the Police would act with so little urgency.

Bribery, corruption and fraud is as serious an issue, especially as the implications of a vote by one of the individuals involved may lead to the disposal of MILLIONS of dollars worth of public assets.

Has John Banks been spoken to by Police? If not why not? This is what I want to know.

Still extremely concerned
Lisa Prager



From: "CLEMENT, Michael" <Michael.Clement@police.govt.nz>
Date: 20 June 2012 9:40:15 AM NZST
To: "l.pra@xtra.co.nz" <l.pra@xtra.co.nz>
Subject: Banks investigation

Ms Prager

Police are making good progress with this investigation but will not be detailing the investigative process through

the media. We undertake to keep complainants apprised as appropriate in line with protocol.

We will be in touch as soon as we have reached a decision and likewise, public comment will be made as appropriate at that time.

Regards

Mike

Mike Clement
Superintendent
District Commander: Auckland City District
New Zealand Police | Auckland Central Police Station | Cnr Cook & Vincent Streets | Auckland
+ Private Bag 92 002 | DX CR51501 | Auckland | (09 302 6861 | Ext: 95861 | 7 09 375 4650)

b) Complaints have been lodged with both the Police and Serious Fraud Office (SFO) alleging bribery and corruption against the Hon. John Banks, by both myself and above-mentioned 'community activist', Lisa Prager:

"14 June 2012

Detective Inspector Mark Benefield

RE: File 120427/9334

'Complaint under the Local Electoral Act 2001 (LEA) in respect to the 2010 Mayoral Election and allegation of a false return made by the now Hon John BANKS in respect of his returns under section 109 LEA'.

As discussed, please can Police extend your investigation of John Banks for alleged electoral fraud to further include alleged 'corruption and bribery of an official' (s.105 Crimes Act 1961),

In light of recent correspondence from the Serious Fraud Office (SFO), this appears to be a more sensible course of action, given that information you must be obtaining as a result of your ongoing investigation into the John Banks electoral fraud allegations will be pertinent to the following 'corruption and bribery of an official' (s.105 Crimes Act 1961) allegation, which was originally filed with the SFO on 3 May 2012.

(Correspondence with the SFO is included in the body of this email.)

NEW EVIDENCE:

John Banks was an 'official' in his capacity as Mayor of Auckland City Council (from 13 October 2007 to 9 October 2010), during the time that \$50,000 was 'donated' by Kim Dotcom,

However, John Banks was also an 'official' from 28 January 1997, which was the date he was granted the title "The Honourable John Archibald BANKS, CNZM, QSO, MP in recognition of his services on the Executive Council.

This title is 'for life', therefore covers the time period that John Banks provided 'assistance' to Kim DotCom?

(Or does 'life' not mean 'life'?)

<http://www.dpmc.govt.nz/honours/lists/hon>

ROLL OF THE HONOURABLES

The Title The Honourable

....

Her Majesty The Queen has approved the use and grant of the title "The Honourable" in New Zealand (abbreviated to "The Hon") for life, in recognition of their services as:

Member of the Executive Council

Judge of the High Court (including Judges of the Supreme Court and the Court of Appeal)

NAMESERVICE DATE GRANTED

The Honourable John Archibald BANKS, CNZM, QSO, MP Executive Council 28 January 1997

John Banks was also awarded the QSO ("The Queens Service Order") in 2000.

<http://www.beehive.govt.nz/minister/biography/john-banks>

"John was awarded the Companion of the Queen's Service Order (QSO) for public service in the Year 2000 New Year's Honours."

[http://www.dpmc.govt.nz/honours/overview/qso#The Queens Service Medal](http://www.dpmc.govt.nz/honours/overview/qso#The_Queens_Service_Medal)

.....

This request for Police to cover this complaint arises from the reply received from Graham Gill, General Manager of Fraud Detection and Intelligence, dated 30 May 2012 which stated:

"Dear Ms Bright,

RE: C2390 – Complaint to the Serious Fraud Office

I refer to your complaint received by the Serious Fraud office (SFO) on 3 May 2012.

We have assessed your complaint and decided that there was insufficient evidence to support an allegation of a serious or complex fraud.

The Police are already investigating the circumstances surrounding Kim Dotcom's donation to John Banks.

We have advised the police to contact us should they find any evidence that would be of interest to the SFO.

If you have any further information you would like to provide in relation to this matter please feel free to do so."

The (updated) response from myself and Lisa Prager follows:

“(UPDATED)*OPEN LETTER / REQUEST TO THE DIRECTOR OF THE SERIOUS FRAUD OFFICE, ADAM FEELEY: 12 June 2012 RE: C2390 – COMPLAINT TO THE SERIOUS FRAUD OFFICE PLEASE URGENTLY REVIEW YOUR DECISION WHICH HAS TREATED A ‘BRIBERY AND CORRUPTION’ COMPLAINT AS A ‘SERIOUS OR COMPLEX FRAUD’ COMPLAINT – WHICH IT IS NOT:

The reply received from Graham Gill, General Manager of Fraud Detection and Intelligence, dated 30 May 2012 stated:

Dear Ms Bright,

RE: C2390 – Complaint to the Serious Fraud Office

I refer to your complaint received by the Serious Fraud office (SFO) on 3 May 2012.

We have assessed your complaint and decided that there was insufficient evidence to support an allegation of a serious or complex fraud.

The Police are already investigating the circumstances surrounding Kim Dotcom’s donation to John Banks. We have advised the police to contact us should they find any evidence that would be of interest to the SFO. If you have any further information you would like to provide in relation to this matter please feel free to do so.”

Why has a complaint alleging BRIBERY and CORRUPTION has been treated as a complaint alleging SERIOUS or COMPLEX FRAUD.

With all due respect – do you people know what you’re doing?

Since 2010, the SFO has been purportedly the ‘lead agency’ to whom complaints alleging bribery and corruption are supposed to be forwarded.

This complaint has been made, in the proper way – to supposedly the proper body, and it appears to have been sent in the completely wrong direction.

According to your SFO ‘flow chart’ – the General Manager for Fraud and Corruption is Nick Paterson.

The recent phone call (Monday 11 June 2012) from Graham Gill, has now clarified why a complaint alleging ‘bribery and corruption’ was not directed to the General Manager of Fraud and Corruption, but – it still seems a rather peculiar process.

New Zealand is ‘perceived’ to be the ‘least corrupt country in the world’ (according to the 2011 Transparency International ‘Corruption Perception index’).

Is this one of the reasons why NZ has this ‘perceived’ status? Because allegations of bribery and corruption are simply not dealt with as such, as appears to have happened in this case?

Why is it that former Labour MP Taito Phillip Field got sentenced to SIX years jail for ‘bribery and corruption’, for providing ‘immigration advice’ to Thai nationals in exchange for work on his properties – whilst John Banks, the Minister of Regulatory Reform appears to be effectively getting political protection from NZ Prime Minister John Key, after John Banks has allegedly given ‘immigration assistance’ and Coatsville property purchase ‘assistance’ to a German/ Finnish national, in return for \$50,000 donated to his

2010 Auckland Mayoral campaign fund, and gifts valued at over \$500 which he failed to declare?

Are you aware that Kim Dotcom's 'John Bank's song' has had nearly 150,000 'hits' on YouTube,

in my opinion, helping to make NZ an international laughing stock? http://www.youtube.com/watch?v=8CvRSZxqk_I

It is also of great concern that ACT's 'one law for all' has yet still to apply to either John Banks and/ or Don Brash, current and former Leaders of the ACT Party.

As former fellow directors of Huljich Wealth Management (NZ) Ltd, both signed Huljich Kiwisaver Scheme registered prospectuses dated 22 August 2008 and 18 September 2009, which contained untrue statements, but were never charged for so doing. This is a strict liability offence under s58(3) of the Securities Act 1978, but neither the old Securities Commission, the Finance Markets Authority (FMA), the Serious Fraud Office (SFO), nor the NZ Police arguably 'did their job' and charged John Banks or Don Brash.

John Banks, is now the Minister of Regulatory Reform, yet four different 'regulatory' bodies failed to act against him, someone, who arguably couldn't properly run a Kiwisaver Scheme, yet now has a key Ministerial post and is supposedly helping to run the country 'perceived' to be the 'least corrupt in the world'

The public 'perception' is arguably that John Banks has been politically protected at the highest levels, because this minority National Government has only 59 out of 121 MPs, thus no mandate for assets sales. Because there is not a majority of National MPs, this minority National Government is dependent on the pivotal vote of John Banks – the ACT MP for Epsom.

The 'perception' is that this why NZ Prime Minister John Key is continuing to 'defend the indefensible' and still express 'confidence' in John Banks, although former National MPs, Richard Worth and Pansy Wong appear to have lost his confidence over a lot less.

The public 'perception' is that if you are a politician upon whose vote the Government is politically dependent, you are protected at the highest levels, and 'one law for all' does NOT apply to you?

Please ensure that this complaint is given to those in the SFO tasked with dealing with corruption, as a matter of extreme urgency, and please ensure that the Police are requested to act with similar haste. This Government is proceeding with extreme urgency to railroad through the Mixed Ownership Model Bill, and it would be a travesty of justice for this to occur on the pivotal vote of a yet-to-be-charged alleged 'corrupt' Minister of the Crown?

Yours sincerely,
Penny Bright Anti-corruption campaigner' Ph (xxxxxx
Lisa Prager Ph (09) xxxxxx

(UPDATED* Lisa Prager's name has been added with her consent, and grammatical changes have thus been made by Penny Bright to the letter hand-delivered to the SFO on Monday 11 June 2012.) "

Detective Inspector Mark Benefield, we look forward to your acknowledgment of receipt of this latest correspondence.

Yours sincerely,
Penny Bright Anti-corruption campaigner'

c) Since 29 February 2012, petition 2011/5, which I initiated, has been an 'Item of Business' before the Commerce Select Committee

http://www.parliament.nz/en-NZ/PB/Presented/Petitions/7/b/d/50DBHOH_PET3097_1-Petition-of-Penelope-Mary-Bright-and-307-others.htm

"That the House conduct an urgent inquiry into the decisions regarding prosecutions relating to the Huljich Kiwisaver Scheme registered prospectuses dated 22 August 2008 and 18 September 2009."

On 21 June 2012 - I sent an 'Open Letter' to all members of the Commerce Select Committee and asked the following question...

21 June 2012

URGENT: To Members of the Commerce Select Committee.

RE: Petition of Penelope Mary Bright and 307 others

That the House conduct an urgent inquiry into the decisions regarding prosecutions relating to the Huljich Kiwisaver Scheme registered prospectuses dated 22 August 2008 and 18 September 2009.

Petition number:	2011/5
Presented by:	Phil Twyford
Date presented:	29 February 2012
Referred to:	Commerce Committee

As the initiating petitioner - it is of considerable concern to myself, as an 'anti-corruption' campaigner, to find that the Commerce Select Committee has yet to report back on this Petition 2011/5 which was presented to the House on 29 February 2012.

It is now 21 June 2012.

I am at a loss to understand why members of the Commerce Select Committee have yet resolved to uphold the principle of 'ONE LAW FOR ALL' and conduct an urgent inquiry into why fellow former Directors Of Huljich Wealth Management (NZ) Ltd, Don Brash and John Banks were not prosecuted by any of the following 'regulatory bodies' for signing the above-mentioned registered prospectuses which contained untrue statements.

It is a FACT that neither the former Securities Commission, the Finance Markets Authority (FMA), the Serious Fraud Office (SFO) or the New Zealand Police have charged former Directors Of Huljich Wealth Management (NZ) Ltd, Don Brash and John Banks for signing the above-mentioned registered prospectuses which contained untrue statements.

Only fellow former Director of Of Huljich Wealth Management (NZ) Ltd, Peter Huljich, was ever charged.

s.58(3) of the Securities Act 1978 is a 'strict liability' offence.

<http://www.legislation.govt.nz/act/public/1978/0103/latest/DLM29406.html>

58 Criminal liability for misstatement in advertisement or registered prospectus

(3) Subject to subsection (4), where a registered prospectus that includes an untrue statement is distributed, every person who signed the prospectus, or on whose behalf the registered prospectus was signed for the purposes of section 41(1)(b), commits an offence.

If John Banks or Don Brash wanted to rely upon the defence provided in s.58(4) - In my considered opinion, they should have argued that in Court, after having first been CHARGED, but all the above-mentioned regulatory bodies to date appeared to have acted as 'gatekeepers' to effectively stop this happening?

(4)(4) No person shall be convicted of an offence under subsection (3) if the person proves either that the statement was immaterial or that he or she had reasonable grounds to believe, and did, up to the time of the distribution of the prospectus, believe that the statement was true.

I am very concerned that the failure to even charge fellow former Directors Of Huljich Wealth Management (NZ) Ltd, Don Brash and John Banks, can be 'perceived' as an arguably corrupt form of political protection, particularly given how politically reliant this National Government is on the vote of coalition partner John Banks, Leader of the ACT Party.

At this time, the Mixed Ownership Model Bill is being rushed through the House, dependent upon the pivotal vote of the Minister of Regulatory Reform, the Hon. John Banks, whom arguably couldn't properly run a Kiwisaver Scheme?

Is it because the majority of members of the Commerce Select Committee are National Party MPs that no progress is apparently being made on this Petition 2011/5 as an 'item of business'?

Because National, with only 59 out of 121 MPs, politically cannot afford to take any action which could potentially result in John Banks being forced to resign from Parliament?

Because - that is how I for one 'perceive' it.

Commerce	Member	Bakshi, Kanwaljit Singh	National Party, List
Commerce	Deputy-Chairperson	Cosgrove, Clayton	Labour Party, List
Commerce	Member	Cunliffe, David	Labour Party, New Lynn
Commerce	Member	Curran, Clare	Labour Party, Dunedin South
Commerce	Member	Lotu-liga, Peseta Sam	National Party, Maungakiekie
Commerce	Member	Mathers, Mojo	Green Party, List
Commerce	Member	Mitchell, Mark	National Party, Rodney
Commerce	Member	Smith, Nick	National Party, Nelson
Commerce	Chairperson	Young, Jonathan	National Party, New Plymouth

This matter is already in the public domain, and on the streets (particularly in the Epsom electorate) I have found there is increasing public interest.

<http://www.stuff.co.nz/sunday-news/latest-edition/6556277/Petition-stalks-Banks-Brash>

Also, further information on this matter, and other complaints about the Hon. John Banks are available for public perusal on www.dodgyjohnhasgone.com - for which I take full personal responsibility for content.

In my considered opinion, the lack of action to date on this matter (and other complaints against the Hon. John Banks) helps to prove why New Zealand needs to urgently ratify the UN Convention Against Corruption and establish a genuinely Independent Commission Against Corruption.

Yours sincerely,

Penny Bright
'Anti-corruption campaigner'

d) The Cabinet Manual states the following regarding the 'Conduct of Ministers':

<http://cabinetmanual.cabinetoffice.govt.nz/2.50>

Conduct of Ministers

2.52A Minister of the Crown, while holding a ministerial warrant, acts in a number of different capacities:

- a. **in a ministerial capacity**, making decisions, and determining and promoting policy within particular portfolios;
- b. **in a political capacity** as a member of Parliament, representing a constituency or particular community of interest;
- c. **in a personal capacity**.

2.53 In all these roles and at all times, Ministers are expected to act lawfully and to behave in a way that upholds, and is seen to uphold, the highest ethical standards. Ultimately, Ministers are accountable to the Prime Minister for their behaviour.

However, the Hon. John Banks still apparently 'has the confidence' of the Prime Minister John Key.

<http://www.3news.co.nz/Law-not-ethics-issue-in-Banks-row---Key/tabid/1607/articleID/252446/Default.aspx>

Mr Key says he will not stand down Mr Banks as the ACT Party MP "has to enjoy my confidence".

Why did former National Party Ministers Richard Worth and Pansy Wong resign from Parliament?

What 'law' did they break - what did they do to no longer 'enjoy the confidence' of the Prime Minister?

e) When it comes to leadership regarding 'ethical' behaviour, it must be noted that the actions of the Prime Minister are currently under investigation by the Office of the Auditor-General (OAG)

<http://www.oag.govt.nz/media/2012/inquiry-med>

"

Inquiry into the Ministry of Economic Development's expressions of interest process for proposals to establish an international convention centre

13 June 2012

The Deputy Auditor-General, Phillippa Smith,¹ has decided to carry out an inquiry into the expressions of interest (EOI) process for proposals to establish an international convention centre. This document sets out the terms of reference for the inquiry.

Background

In 2010, the Ministry of Economic Development carried out an EOI process, on behalf of the Government, seeking proposals to build an international convention centre. On 12 June 2011, the Government announced that it was negotiating with SKYCITY Entertainment Group Limited, whose proposal had been selected as the best option. . "

It is also noted that although the Prime Minister stated that Labour Party MP Shane Jones should stand down whilst his actions were investigated by the OAG, he does not appear to be applying the same requirement to himself?

<http://tvnz.co.nz/politics-news/labour-standing-down-shane-jones-4898323>

" Prime Minister John Key had been calling on Labour to stand down Jones, describing the case as "murky". "

f) Please be reminded that New Zealand is 'perceived' to be the least corrupt country in the world, according to Transparency International's 2011 'Corruption Perception Index'.

<http://cpi.transparency.org/cpi2011/results/>

If New Zealand were truly worthy of this 'perceived' status - then surely we should arguably be the most 'transparent' country in the world?

Why is it that the 'perception' appears to be that if you are a politician upon whose vote legislation such as the Mixed Ownership Model Bill depends for its passage - that you are effectively 'above the law'?

(FYI - as an attendee at the 2010 Transparency International Conference, as an 'transparency whistleblower' distributed the following 'New Zealand Corruption Reality Checklist': (Attached).

Perhaps if New Zealand had ratified the UN Convention Against Corruption; had a truly Independent Commission Against Corruption, if MPs and Judges had enforceable 'Codes of Conduct'; if it were a lawful requirement that only a binding vote of the public majority could determine whether public assets held at NZ central or local government could be sold or long-term leased via Public-Private-Partnerships (PPPs) - then we might be a little more deserving of this 'perceived' international status?)

g) Investment in the partial privatisation of essential State assets - particularly electricity assets - enabled through the granting of Royal Assent for the Mixed Ownership Model Bill - would arguably be UNETHICAL and SOCIALLY IRRESPONSIBLE?

In my opinion, the following submission from CARITUS helps to outline some of these reasons?

<http://www.caritas.org.nz/resources/submissions/2012/submission-finance-and-expenditure-select-committee-mixed-ownership-model>

"Who we are

Caritas Aotearoa New Zealand is the Catholic Bishops' agency for justice, peace and development. We are working for a world free of poverty and injustice through community development, advocacy, education, and emergency relief.

- We provide community development and emergency relief overseas
- We educate and advocate on social justice issues to counter poverty and injustice in New Zealand and overseas
- Gospel values and Catholic social teaching underpin our work
- Caritas Aotearoa New Zealand has 14 staff based in Wellington and an Auckland Regional Coordinator
- We are part of Caritas Internationalis, an international confederation of 168 Catholic aid, development and social justice agencies
- The Caritas network operates in over 200 countries and territories, supporting the poorest and most vulnerable, regardless of ethnicity, religion or nationality
- We are the Catholic agency for justice, peace and development

Submission to the Finance and Expenditure Select Committee on the Mixed Ownership Model Bill

Summary of key points

- Caritas has reflected on the question of the partial privatization of State owned power companies in the light of Catholic social teaching on the common good, the protection of the poor and vulnerable members of society, the protection of the environment, and the principle of the universal destination of created goods.
- We recognise that Catholic social teaching does not prescribe specific public policy solutions. We also recognise that Catholic social teaching contains cautions both for people seeking to privatise and people seeking to nationalise industries and services which provide essential goods. It recognises both the value of the market and the limits to the market.
- Caritas does not favour the partial privatisation of the four State owned power companies. We believe continued state ownership is a better way:
 - to ensure the provision of essential services, particularly for the most poor and vulnerable consumers;
 - to improve our use of energy in the face of environmental destruction and climate change;
 - to ensure that our commitments to the Treaty of Waitangi are met;
 - to overcome or at least not worsen local and global inequalities; and
 - to continue to have an adequate oversight of the behaviour of state institutions. "

h) How can the 'mums and dads' who can't afford to have their heaters on in winter, who are struggling to pay their power bills, going to be able to afford to invest in power companies, which at present, they already own, given the proven track record of power price rises since the 'inefficient' days of the Department of Electricity and local Power Boards ?

Is it not painfully obvious, that once the 'competitive model' is 'introduced into a 'natural monopoly' such as electricity supply (which is also an essential public service)' - then there is a duplication of resources which results in higher power prices?

http://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=10811555

i) Treasury information which arguably proves that 'extending the Mixed Ownership Model' is fiscally irresponsible:

<http://www.treasury.govt.nz/budget/2012/bps/bps12.pdf>

"Extending the Mixed Ownership Model

.....

Over the mixed ownership programme, the forecast finance cost savings exceed the forecast forgone dividends.

However, the forecast finance cost savings are less than the forecast forgone profits. This is because State-owned enterprises are expected to act as profitable companies and therefore over time to earn an appropriate commercial rate of return that reflects the risk of owning such companies. In effect, the Crown is exchanging an expected stream of income for a (risk adjusted) equivalent amount of cash now. "

How, therefore, will the passage of the Mixed Ownership Model Bill, be working 'for the good management of the affairs of New Zealand'?

In light of the above-mentioned reasons, I request that you, Governor-General, The Rt Hon Sir Jerry Mateparae, consider using your 'reserve powers' and refuse to grant 'Royal Assent' for the Mixed Ownership Model Bill, should it pass its Third Reading.

Yours sincerely,

Penny Bright

'Anti-corruption campaigner'

Attendee: Australian Public Sector Anti-Corruption Conference Brisbane 2009

Attendee: Transparency International Anti-Corruption Conference Bangkok 2010

FRANICH, Mark

From: BENEFIELD, Mark
Sent: Tuesday, 3 July 2012 12:44
To: READ, Peter
Subject: FW: Complaint under Section 138 of the Local Electoral Act 2001(LEA)

[REDACTED]

Regards

[REDACTED]

From: Lisa Prager [<mailto:l.pra@xtra.co.nz>]
Sent: Tuesday, 3 July 2012 12:19
To: BENEFIELD, Mark
Cc: WATSON, Kim
Subject: Fwd: Complaint under Section 138 of the Local Electoral Act 2001(LEA)

Dear Mark,

It disgusts me to have to listen to John Banks wax lyrical about farmers and emissions on National Radio, while you are unable to indicate if he has behaved illegally re: my complaint under the Local Electoral Act.(see below)

What is the status of my complaints involving John Banks: File 120427/9334 refers.

Concerned Citizen
Lisa Prager

Begin forwarded message:

From: "BENEFIELD, Mark" <Mark.Benefield@police.govt.nz>
Date: 27 April 2012 3:55:44 PM NZST
To: 'Dale Ofoske' [REDACTED],
"trevor.mallard@parliament.govt.nz" <trevor.mallard@parliament.govt.nz>,
"waterpressure@gmail.com" <waterpressure@gmail.com>, "l.pra@xtra.co.nz"
<l.pra@xtra.co.nz>
Cc: Bruce Thomas <[REDACTED]>, "BEARD, Scott"
<Scott.Beard@police.govt.nz>
Subject: RE: Complaint under Section 138 of the Local Electoral Act 2001(LEA)

This email is to formally acknowledge your complaint under the Local Electoral Act 2001(LEA) in respect to the 2010 Mayoral Election and allegation of a false return made by the now Hon John BANKS in respect of his returns under section 109 LEA.

For future reference File 120427/9334 refers.

At this point in time I will be your point of contact.

Regards

Detective Inspector Mark Benefield

Field Crime Manager Auckland City District

From: Lisa Prager [<mailto:l.pra@xtra.co.nz>]

Sent: Tuesday, 19 June 2012 13:42

To: WATSON, Kim

Cc: Dale Ofoske; trevor.mallard@parliament.govt.nz; BEARD,

Scott; Bernard.Orsman@nzherald.co.nz; claire.trevett@nzherald.co.nz; nicolas.jones@nzherald.co.nz

Subject: Att: Peter Marshall

To: Police Commissioner:

Peter Marshall

New Zealand Police Force

Wellington

Dear Sir,

I am one of the original complainants regarding John Banks and the alleged electoral fraud.

My original complainant was acknowledged by Detective Inspector Mark Benefield Field Crime Manager Auckland City District 27/4/2012

I spoke to him in early in June and then again today.

In our conversation, he told me that the information in todays New Zealand Herald (page A7) "not available on line" was a load of rubbish, suggesting that Mr Banks had been spoken to.

At the end of the conversation he admitted that the Police were having trouble getting persons of interest and their lawyers to a meeting with police.

I am most upset and concerned that this issue in which a complaint of Serious Fraud and Corruption has been made about an MP whose position in our New Zealand Parliament may lead to the sale of millions of dollars of public assets is "NO SMALL ISSUE!"

If the Police do not have the power to investigate this very serious matter. Then why have the police not turned this issue over to the Serious Fraud Office.

I have spoken to Mr. Graham Gill at the Serious Fraud Office and he has explained that "No crime has been committed" because the police have not been able to complete

their investigation. Our conversation sounded like some sort of absurd comedy, where the police can catch a common criminal, but a Ex Mayor can gets away scot free!

The people of New Zealand deserve to know if Mr Banks has committed a crime, given that his vote holds the balance within our NZ parliament.

If the Police allow this investigation to go unresolved before parliament votes on the NZ Assets Sales, they will be implicated in allowing a grand injustice and a national fraud to occur.

Please use your power to see Justice is done and that the police are not played like a piano by the ex- minister of Police and his lawyers.

Your most seriously and sincerely
Lisa Prager





26 July 2012

Penny Bright

Dear Ms Bright

**COMPLAINT REGARDING HONOURABLE JOHN BANKS - MAYORAL ELECTIONS
RETURN - FILE NO: 120427/9334 REFERS**

On 27 April 2012, you made a complaint to the Auckland City Police requesting they investigate reports regarding the Hon. John Archibald Banks, CNZM QSO, that he submitted a false donation return in respect to the Auckland City Council Mayoral election 2010.

Specifically the letter of complaint referred to two donations in question:

1. A \$15,000.00 donation allegedly made by Sky City to the former Auckland City Mayor John Banks which did not show up as a donation in the return.
2. A donation of "Anonymous - radio ads".

On Monday 30 April 2012 you made a further complaint in respect to the election expenses donation return by Mr John Banks. Your complaint referred to media articles by Campbell Live (27 April 2012) and the New Zealand Herald (28 April 2012) that discussed donations allegedly made by Mr Dotcom to Mr Banks for his mayoral campaign.

In both complaints you allege that if the articles were correct then Mr Banks had breached the Local Electoral Act 2001 in that a candidate commits an offence who transmits a return of electoral expenses knowing that it is false in any material particular.

Findings:

The allegations you refer to are offences that come under Part 7 section 134 (False return) of the Local Electoral Act 2001. I will detail each donation and its findings.

Section 134 has two levels of offences pertaining to false returns:

Safer Communities Together

CANTERBURY DISTRICT HEADQUARTERS

Cnr Hereford Street and Cambridge Terrace, WX10057, Christchurch, New Zealand
Telephone: (03) 363 7400 Facsimile: (03) 363 5616 www.police.govt.nz

P1172

134 (1) Every candidate commits an offence who transmits a return of electoral expenses knowing that it is false in any material particular, and is liable on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$10,000. and

134 (2) Every candidate commits an offence and is liable on summary conviction to a fine not exceeding \$5,000 who transmits a return of electoral expenses that is false in any material particular unless the candidate proves—

- (a) that he or she had no intention to mis-state or conceal the facts; and*
- (b) that he or she took all reasonable steps to ensure that the information was accurate.*

Skycity Entertainment Group Limited - \$15,000.00:

The Police investigation established that on 24 May 2010 Mayor John Banks met with the Chief Executive Officer (CEO) of Sky City Entertainment Group Limited. At that meeting Mayor Banks received a sealed envelope containing a \$15,000.00 cheque written out to "Team Banksie 2010". Team Banksie was the name given to Mr Bank's campaign organisation. This donation was subsequently recorded in the Electoral Return by the Treasurer for Team Banksie as anonymous.

Police were unable to establish that Mr Banks had the necessary knowledge that the donation had been recorded as anonymous in the return before he signed and submitted it. The return was compiled by a campaign volunteer. Mr Banks sought and received confirmation that it was an accurate return of his expenses before signing and transmitting the return. Police are therefore of the view that there is insufficient evidence to consider a prosecution in respect of section 134(1).

Any charges for offences pursuant to section 134 (2) must be laid within six months of the electoral return being supplied. Police first received the complaint for investigation on 27 April 2012, approximately 10 months after the expiry of six month period. Police are therefore unable to consider charges pursuant to this section.

Anonymous Radio Ads \$15,690.00:

Police have established that in September 2010 Mr John Banks personally solicited a request for help from a Donor who prefers to remain anonymous for the purpose of this correspondence. As a result of a discussion between the two it was agreed that the Donor would help with a donation of radio advertising for the campaign.

The donation was recorded on the return by the Treasurer for Team Banksie as an "Anonymous" donation of \$15690.00 and also as an advertising expense of \$15690.00 in the expenses section of the return.

Police were unable to establish that Mr BANKS had the necessary knowledge that the donation had been recorded as anonymous in the return before he signed and submitted it. The return was compiled by a campaign volunteer. Mr Banks sought and received confirmation that it was an accurate return of his expenses before signing and transmitting the return. Police are therefore of the view that there is insufficient evidence to consider a prosecution in respect of section 134(1).

Any charges for offences pursuant to section 134 (2) must be laid within six months of the electoral return being supplied. Police first received the complaint for investigation on 27 April 2012, approximately 10 months after the expiry of six month period. Police are therefore unable to consider charges pursuant to this section.

Kim Dotcom donations: 2 x \$25,000.00:

Police have established that on 09 June 2010 Mr John Banks personally solicited a donation from Mr Kim Dotcom. This request resulted in Mr Kim Dotcom paying two \$25,000.00 donations to the bank account of Team Banksie 2010 on 14 July 2010. Both donations were subsequently recorded in the Electoral Return by the Treasurer for Team Banksie as anonymous.

Police were unable to establish that Mr Banks had the necessary knowledge that the donation had been recorded as anonymous in the return before he signed and submitted it. The return was compiled by a campaign volunteer. Mr Banks sought and received confirmation that it was an accurate return of his expenses before signing and transmitting the return. Police are therefore of the view that there is insufficient evidence to consider a prosecution in respect of section 134(1).

Any charges for offences pursuant to section 134 (2) must be laid within six months of the electoral return being supplied. Police first received this complaint for investigation on 1 May 2012, approximately 10 months after the expiry of six month period. Police are therefore unable to consider charges pursuant to this section.

On 14 June 2012 you sent an email to Detective Inspector Benefield requesting Police extend the investigation of John Banks for alleged electoral fraud to further include alleged "corruption and bribery of an official" under section 105 of the Crimes Act 1961.

After a review of the circumstances and information gathered in this investigation I cannot find any evidence that would support a charge in relation to section 105 of the Crimes Act 1961.

The file is now complete and will be filed at the Auckland Central Police station.

If you have any concerns over the contents of this letter or any issues stemming from this complaint, do not hesitate to contact me.

Yours faithfully



Peter Read
Detective Superintendent : Southern
Christchurch



26 July 2012

Mr Trevor Mallard
MP
Hutt South
WELLINGTON

Dear Sir

**COMPLAINT REGARDING HONOURABLE JOHN BANKS - MAYORAL ELECTIONS
RETURN - FILE NO: 120427/9334 REFERS**

On 23 April 2012, you made a written complaint to the Auckland City Council Electoral Officer, Mr Bruce Thomas requesting he investigate reports regarding the Hon. John Archibald Banks, CNZM QSO, that he submitted a false donation return in respect to the Auckland City Council Mayoral election 2010.

Specifically you referred to two donations in question:

1. A \$15,000.00 donation allegedly made by Sky City to the former Auckland City Mayor John Banks which did not show up as a donation in the return.
2. A donation of "Anonymous - radio ads".

In a letter to the Auckland City Council Electoral Officer, Mr Bruce Thomas dated April 30 2012 you made a further complaint in respect to the election expenses donation return by Mr John Banks. Your complaint referred to media articles by Campbell Live (27 April 2012) and the New Zealand Herald (28 April 2012) that discussed donations allegedly made by Mr Dotcom to Mr Banks for his mayoral campaign.

In both letters you allege that if the articles were correct then Mr Banks had breached the Local Electoral Act 2001 in that a candidate commits an offence who transmits a return of electoral expenses knowing that it is false in any material particular.

Pursuant to section 138 of the Local Electoral Act 2001, Mr Thomas passed on your complaints to the Auckland City Police on 27 April 2012. As a result the Auckland City Police launched an investigation, file 120427/9334 refers.

Findings:

The allegations you refer to are offences that come under Part 7 section 134 (False return) of the Local Electoral Act 2001. I will detail each donation and its findings.

Section 134 has two levels of offences pertaining to false returns:

Safer Communities Together

CANTERBURY DISTRICT HEADQUARTERS

Cnr Hereford Street and Cambridge Terrace, WX10057, Christchurch, New Zealand
Telephone: (03) 363 7400 Facsimile: (03) 363 5616 www.police.govt.nz

P1175

134 (1) Every candidate commits an offence who transmits a return of electoral expenses knowing that it is false in any material particular, and is liable on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$10,000. and

134 (2) Every candidate commits an offence and is liable on summary conviction to a fine not exceeding \$5,000 who transmits a return of electoral expenses that is false in any material particular unless the candidate proves—

- (a) that he or she had no intention to mis-state or conceal the facts; and*
- (b) that he or she took all reasonable steps to ensure that the information was accurate.*

Skycity Entertainment Group Limited - \$15,000.00:

The Police investigation established that on 24 May 2010 Mayor John Banks met with the Chief Executive Officer (CEO) of Sky City Entertainment Group Limited. At that meeting Mayor Banks received a sealed envelope containing a \$15,000.00 cheque written out to "Team Banksie 2010". Team Banksie was the name given to Mr Bank's campaign organisation. This donation was subsequently recorded in the Electoral Return by the Treasurer for Team Banksie as anonymous.

Police were unable to establish that Mr BANKS had the necessary knowledge that the donation had been recorded as anonymous in the return before he signed and submitted it. The return was compiled by a campaign volunteer. Mr Banks sought and received confirmation that it was an accurate return of his expenses before signing and transmitting the return. Police are therefore of the view that there is insufficient evidence to consider a prosecution in respect of section 134(1).

Any charges for offences pursuant to section 134 (2) must be laid within six months of the electoral return being supplied. Police first received the complaint for investigation on 27 April 2012, approximately 10 months after the expiry of six month period. Police are therefore unable to consider charges pursuant to this section.

Anonymous Radio Ads \$15,690.00:

Police have established that in September 2010 Mr John Banks personally solicited a request for help from a Donor who prefers to remain anonymous for the purpose of this correspondence. As a result of a discussion between the two it was agreed that the Donor would help with a donation of radio advertising for the campaign.

The donation was recorded on the return by the Treasurer for Team Banksie as an "Anonymous" donation of \$15690.00 and also as an advertising expense of \$15690.00 in the expenses section of the return.

Police were unable to establish that Mr Banks had the necessary knowledge that the donation had been recorded as anonymous in the return before he signed and submitted it. The return was compiled by a campaign volunteer. Mr Banks sought and received confirmation that it was an accurate return of his expenses before signing and transmitting the return. Police are therefore of the view that there is insufficient evidence to consider a prosecution in respect of section 134(1).

Any charges for offences pursuant to section 134 (2) must be laid within six months of the electoral return being supplied. Police first received the complaint for investigation on 27 April 2012, approximately 10 months after the expiry of six month period. Police are therefore unable to consider charges pursuant to this section.

Kim Dotcom donations: 2 x \$25,000.00:

Police have established that on 09 June 2010 Mr John Banks personally solicited a donation from Mr Kim Dotcom. This request resulted in Mr Kim Dotcom paying two \$25,000.00 donations to the bank account of Team Banksie 2010 on 14 July 2010. Both donations were subsequently recorded in the Electoral Return by the Treasurer for Team Banksie as anonymous.

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Any charges for offences pursuant to section 134 (2) must be laid within six months of the electoral return being supplied. Police first received this complaint for investigation on 1 May 2012, approximately 10 months after the expiry of six month period. Police are therefore unable to consider charges pursuant to this section.

The file is now complete and will be filed at the Auckland Central Police station.

If you have any concerns over the contents of this letter or any issues stemming from this complaint, do not hesitate to contact me.

Yours faithfully

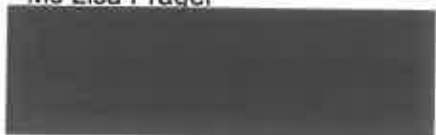


Peter Read
Detective Superintendent : Southern
Christchurch



26 July 2012

Ms Lisa Prager



Dear Ms Prager

**COMPLAINT REGARDING HONOURABLE JOHN BANKS - MAYORAL ELECTIONS
RETURN - FILE NO: 120427/9334 REFERS**

On 27 April 2012, you made a complaint to the Auckland City Police requesting they investigate reports regarding the Hon. John Archibald Banks, CNZM QSO, that he submitted a false donation return in respect to the Auckland City Council Mayoral election 2010.

Specifically the letter of complaint referred to two donations in question:

1. A \$15,000.00 donation allegedly made by Sky City to the former Auckland City Mayor John Banks which did not show up as a donation in the return.
2. A donation of "Anonymous - radio ads".

On Monday 30 April 2012 you made a further complaint in respect to the election expenses donation return by Mr John Banks. Your complaint referred to media articles by Campbell Live (27 April 2012) and the New Zealand Herald (28 April 2012) that discussed donations allegedly made by Mr Dotcom to Mr Banks for his mayoral campaign.

In both complaints you allege that if the articles were correct then Mr Banks had breached the Local Electoral Act 2001 in that a candidate commits an offence who transmits a return of electoral expenses knowing that it is false in any material particular.

Findings:

The allegations you refer to are offences that come under Part 7 section 134 (False return) of the Local Electoral Act 2001. I will detail each donation and its findings.

Section 134 has two levels of offences pertaining to false returns:

Safer Communities Together

CANTERBURY DISTRICT HEADQUARTERS

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Telephone: (03) 363 7400 Facsimile: (03) 363 5616 www.police.govt.nz

P1178

134 (1) Every candidate commits an offence who transmits a return of electoral expenses knowing that it is false in any material particular, and is liable on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$10,000.

and

134 (2) Every candidate commits an offence and is liable on summary conviction to a fine not exceeding \$5,000 who transmits a return of electoral expenses that is false in any material particular unless the candidate proves—

- (a) that he or she had no intention to mis-state or conceal the facts; and*
- (b) that he or she took all reasonable steps to ensure that the information was accurate.*

Skycity Entertainment Group Limited - \$15,000.00:

The Police investigation established that on 24 May 2010 Mayor John Banks met with the Chief Executive Officer (CEO) of Sky City Entertainment Group Limited. At that meeting Mayor Banks received a sealed envelope containing a \$15,000.00 cheque written out to "Team Banksie 2010". Team Banksie was the name given to Mr Bank's campaign organisation. This donation was subsequently recorded in the Electoral Return by the Treasurer for Team Banksie as anonymous.

Police were unable to establish that Mr Banks had the necessary knowledge that the donation had been recorded as anonymous in the return before he signed and submitted it. The return was compiled by a campaign volunteer. Mr Banks sought and received confirmation that it was an accurate return of his expenses before signing and transmitting the return. Police are therefore of the view that there is insufficient evidence to consider a prosecution in respect of section 134(1).

Any charges for offences pursuant to section 134 (2) must be laid within six months of the electoral return being supplied. Police first received the complaint for investigation on 27 April 2012, approximately 10 months after the expiry of six month period. Police are therefore unable to consider charges pursuant to this section.

Anonymous Radio Ads \$15,690.00:

Police have established that in September 2010 Mr John Banks personally solicited a request for help from a Donor who prefers to remain anonymous for the purpose of this correspondence. As a result of a discussion between the two it was agreed that the Donor would help with a donation of radio advertising for the campaign.

The donation was recorded on the return by the Treasurer for Team Banksie as an "Anonymous" donation of \$15690.00 and also as an advertising expense of \$15690.00 in the expenses section of the return.

Police were unable to establish that Mr Banks had the necessary knowledge that the donation had been recorded as anonymous in the return before he signed and submitted it. The return was compiled by a campaign volunteer. Mr Banks sought and received confirmation that it was an accurate return of his expenses before signing and transmitting

the return. Police are therefore of the view that there is insufficient evidence to consider a prosecution in respect of section 134(1).

Any charges for offences pursuant to section 134 (2) must be laid within six months of the electoral return being supplied. Police first received the complaint for investigation on 27 April 2012, approximately 10 months after the expiry of six month period. Police are therefore unable to consider charges pursuant to this section.

Kim Dotcom donations: 2 x \$25,000.00:

Police have established that on 09 June 2010 Mr John Banks personally solicited a donation from Mr Kim Dotcom. This request resulted in Mr Kim Dotcom paying two \$25,000.00 donations to the bank account of Team Banksie 2010 on 14 July 2010. Both donations were subsequently recorded in the Electoral Return by the Treasurer for Team Banksie as anonymous.

Police were unable to establish that Mr Banks had the necessary knowledge that the donation had been recorded as anonymous in the return before he signed and submitted it. The return was compiled by a campaign volunteer. Mr Banks sought and received confirmation that it was an accurate return of his expenses before signing and transmitting the return. Police are therefore of the view that there is insufficient evidence to consider a prosecution in respect of section 134(1).

Any charges for offences pursuant to section 134 (2) must be laid within six months of the electoral return being supplied. Police first received this complaint for investigation on 1 May 2012, approximately 10 months after the expiry of six month period. Police are therefore unable to consider charges pursuant to this section.

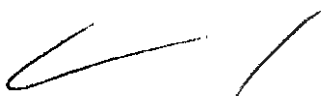
On 14 June 2012 you sent an email to Detective Inspector Benefield requesting Police extend the investigation of John Banks for alleged electoral fraud to further include alleged "corruption and bribery of an official" under section 105 of the Crimes Act 1961.

After a review of the circumstances and information gathered in this investigation I cannot find any evidence that would support a charge in relation to section 105 of the Crimes Act 1961.

The file is now complete and will be filed at the Auckland Central Police station.

If you have any concerns over the contents of this letter or any issues stemming from this complaint, do not hesitate to contact me.

Yours faithfully



Peter Read
Detective Superintendent : Southern
Christchurch



26 July 2012

Mr Bruce Thomas
Electoral Officer
Public Information Manager
Auckland Council
Level 16
Civic Administration Building
1 Greys Avenue
AUCKLAND

Dear Sir

**COMPLAINT REGARDING HONOURABLE JOHN BANKS - MAYORAL ELECTIONS
RETURN - FILE NO: 120427/9334 REFERS**

On 27 April 2012, pursuant to Section 138 of the Local Electoral Act 2001, you forwarded a written complaint to the Auckland City Police asking Police to investigate complaints that the Honourable John Archibald Banks CNZM QSO had submitted a false donation return for the Auckland City Council Mayoral election 2010. The written complaint had come from Mr Trevor Mallard Labour MP for Hutt Valley.

Specifically the letter of complaint referred to two donations in question:

1. A \$15,000.00 donation allegedly made by Sky City to the former Auckland City Mayor John Banks which did not show up as a donation in the return.
2. A donation of "Anonymous - radio ads".

On or about 01 May 2012 you forwarded a second letter of complaint by Mr Mallard dated April 30 2012 about the election expenses donation return by Mr Banks. The complaint referred to media articles by Campbell Live (27 April 2012) and the New Zealand Herald (28 April 2012) that discussed donations allegedly made by Mr Dotcom to Mr Banks for his mayoral campaign.

In both letters Mr Mallard alleges that Mr Banks had breached the Local Electoral Act 2001 in that a candidate commits an offence who transmits a return of electoral expenses knowing that it is false in any material particular.

Safer Communities Together

CANTERBURY DISTRICT HEADQUARTERS

Cnr Hereford Street and Cambridge Terrace, WX10057, Christchurch, New Zealand
Telephone: (03) 363 7400 Facsimile: (03) 363 5616 www.police.govt.nz

P1181

The Law:

The allegations you refer to are offences that come under Part 7 section 134 (False return) of the Local Electoral Act 2001.

Section 134 has two levels of offences pertaining to false returns:

134 (1) Every candidate commits an offence who transmits a return of electoral expenses knowing that it is false in any material particular, and is liable on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$10,000.
and

*134 (2) Every candidate commits an offence and is liable on summary conviction to a fine not exceeding \$5,000 who transmits a return of electoral expenses that is false in any material particular unless the candidate proves—
(a) that he or she had no intention to mis-state or conceal the facts; and
(b) that he or she took all reasonable steps to ensure that the information was accurate.*

Skycity Entertainment Group Limited - \$15,000.00:

The Police investigation established that on 24 May 2010 Mayor John Banks met with the Chief Executive Officer (CEO) of Sky City Entertainment Group Limited. At that meeting Mayor Banks received a sealed envelope containing a \$15,000.00 cheque written out to "Team Banksie 2010". Team Banksie was the name given to Mr Bank's campaign organisation. This donation was subsequently recorded in the Electoral Return by the Treasurer for Team Banksie as anonymous.

Police were unable to establish that Mr Banks had the necessary knowledge that the donation had been recorded as anonymous in the return before he signed and submitted it. The return was compiled by a campaign volunteer. Mr Banks sought and received confirmation that it was an accurate return of his expenses before signing and transmitting the return. Police are therefore of the view that there is insufficient evidence to consider a prosecution in respect of section 134(1).

Any charges for offences pursuant to section 134 (2) must be laid within six months of the electoral return being supplied. Police first received the complaint for investigation on 27 April 2012, approximately 10 months after the expiry of six month period. Police are therefore unable to consider charges pursuant to this section.

Anonymous Radio Ads \$15,690.00:

Police have established that in September 2010 Mr John Banks personally solicited a request for help from a Donor who prefers to remain anonymous for the purpose of this correspondence. As a result of a discussion between the two it was agreed that the Donor would help with a donation of radio advertising for the campaign.

The donation was recorded on the return by the Treasurer for Team Banksie as an "Anonymous" donation of \$15690.00 and also as an advertising expense of \$15690.00 in the expenses section of the return. Police enquiries show that the amount was actually incorrectly recorded as the actual amount paid was \$11,478.14 inclusive of GST. The error came about because of a discount given to the Donors business by The Radio Bureau who handled the account.

Police were unable to establish that Mr Banks had the necessary knowledge that the donation had been recorded as anonymous in the return before he signed and submitted it. The return was compiled by a campaign volunteer. Mr Banks sought and received confirmation that it was an accurate return of his expenses before signing and transmitting the return. Police are therefore of the view that there is insufficient evidence to consider a prosecution in respect of section 134(1).

Any charges for offences pursuant to section 134 (2) must be laid within six months of the electoral return being supplied. Police first received the complaint for investigation on 27 April 2012, approximately 10 months after the expiry of six month period. Police are therefore unable to consider charges pursuant to this section.

Kim Dotcom donations: 2 x \$25,000.00:

Police have established that on 09 June 2010 Mr John Banks personally solicited a donation from Mr Kim Dotcom. This request resulted in Mr Kim Dotcom paying two \$25,000.00 donations to the bank account of Team Banksie 2010 on 14 July 2010. Both donations were subsequently recorded in the Electoral Return by the Treasurer for Team Banksie as anonymous.

Police were unable to establish that Mr Banks had the necessary knowledge that the donation had been recorded as anonymous in the return before he signed and submitted it. The return was compiled by a campaign volunteer. Mr Banks sought and received confirmation that it was an accurate return of his expenses before signing and transmitting the return. Police are therefore of the view that there is insufficient evidence to consider a prosecution in respect of section 134(1).

Any charges for offences pursuant to section 134 (2) must be laid within six months of the electoral return being supplied. Police first received this complaint for investigation on 1 May 2012, approximately 10 months after the expiry of six month period. Police are therefore unable to consider charges pursuant to this section.

The file is now complete and will be filed at the Auckland Central Police station.

If you have any concerns over the contents of this letter or any issues stemming from this complaint, do not hesitate to contact me.

Yours faithfully



Peter Read
Detective Superintendent : Southern
Christchurch