

Mrs Tanya Davies MP
Chair
Committee on the ICAC
Parliament House
Macquarie Street
SYDNEY NSW 2000

By Email: icaccommittee@parliament.nsw.gov.au

Dear Mrs Davies

Review of the 2017-18 Annual Reports of the ICAC & Inspector of the ICAC

I am writing with respect to what appears to be misapprehensions by some members of the Committee concerning the findings made in the Commission's August 2016 Operation Spicer report: *Investigation into NSW Liberal Party electoral funding for the 2011 State election campaign and other matters*.

There are references in the transcript of the Committee's meeting on Friday 18 October 2019 to the Commission having made no findings against Michael Gallacher (see questions by Mr Hoenig at pages 6 and 7 and the Hon Taylor Martin at page 10) or Christopher Spence (see question by the Hon Taylor Martin at page 10).

Adverse factual findings were made against both Mr Gallacher and Mr Spence.

With respect to Mr Gallacher, the following findings were made:

1. Mr Gallacher, Christopher Hartcher, Timothy Koelma, Troy Palmer and Darren Williams were parties to an arrangement whereby, between July 2010 and March 2011, Patinack Farm made payments totalling \$66,000 to Mr Koelma's company, Eightbyfive. These payments were ostensibly for the provision of services by Eightbyfive, to Patinack Farm but were in fact political donations to help fund the NSW Liberal Party 2011 Central Coast election campaign. The parties to this arrangement intended to evade the disclosure requirements of the *Election Funding, Expenditure and Disclosures Act 1981* (the Election Funding Act) (see chapter 20 of the report).
2. In about November 2010, Mr Gallacher sought a political donation from David Sharpe of Buildev by inviting him to attend a New Year's Eve political fundraising function for which Mr Sharpe or Buildev would make a payment. Mr Gallacher knew that they were property developers and he sought the political donation with the intention of evading the election funding laws relating to the ban on property developers making political donations (see chapter 25 of the report).
3. In late 2010, Mr Gallacher, Mr Hartcher and Mr Williams of Buildev entered into an arrangement with the intention of evading Election Funding Act laws relating to the accurate disclosure to the Election Funding Authority of political donations in relation to two political donations totalling \$53,000 (see chapter 26 of the report).

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4. Mr Gallacher was responsible for proposing to Jeffrey McCloy and Hilton Grugeon an arrangement whereby each of Mr McCloy and Mr Grugeon would contribute to the payment of Luke Grant for his work on Timothy Owen's 2011 election campaign with the intention that the Election Funding Act laws in relation to the prohibition on political donations from property developers and the requirements for the disclosure of political donations to the Election Funding Authority would be evaded (see chapter 27 of the report).

With respect to Mr Spence, the Commission found that he, Nabil Gazal Junior, Nicholas Gazal and Mr Koelma were parties to an arrangement whereby, between May 2010 and April 2011, the Gazal company, Gazcorp, made payments totalling \$121,000 to Eightbyfive, which were in fact political donations mainly used to help fund Mr Spence to work on the Central Coast election campaign and on his campaign for the seat of The Entrance and by that arrangement he and others intended to evade the disclosure requirements of the Election Funding Act and the ban on the making and accepting of political donations from property developers (see chapter 19 of the report).

No corrupt conduct findings were made against Mr Gallacher or Mr Spence. As explained in the Foreword to the report, a combination of the High Court decision in *ICAC v Cunneen* [2015] HCA 14 and the effect of the *Independent Commission Against Corruption Amendment Act 2015* meant that no finding of corrupt conduct could be made where the conduct was limited to a breach of the Election Funding Act.

I trust the above information clarifies the position.

Yours sincerely



The Hon Peter Hall QC
Chief Commissioner

25th October 2019