

# Operation Spicer: Larceny charges recommended against former minister Chris Hartcher

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**Former NSW Liberal minister Chris Hartcher faces potential larceny charges and former Labor minister Joe Tripodi has been found to have engaged in serious corrupt conduct by the Independent Commission Against Corruption following its investigation into political fundraising.**



## *Operation Spicer's big three findings*

*The Independent Commission Against Corruption has recommended criminal charges following its investigation into political fundraising. Sean Nicholls reports.*

The ICAC's Operation Spicer report also says a host of former Liberal MPs including former police minister Mike Gallacher, Mr Hartcher, Tim Owen, Andrew Cornwell, Garry Edwards, Chris Spence as well as former Newcastle Lord Mayor Jeff McCloy "acted with the intention of evading laws" under the Election Funding, Expenditure and Disclosures Act.

As well, ICAC has found that Hunter Valley property developer Hilton Grugeon, Mr Hartcher and his former staff member Tim Koelma are among those who "acted with the intention of evading the election funding laws relating to caps on political donations".

Former Liberal MPs Craig Baumann and Darren Webber as well as Liberal identity Nick Di Girolamo have been found to have evaded election funding laws relating to disclosure, while another former Liberal MP, Bart Bassett, has been found to have "knowingly solicited a political donation from a property developer".

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The commission recommends that the director of public prosecutions consider bringing charges against Mr Cornwell, his wife Samantha Brookes, Mr Koelma and others for giving false or misleading evidence to its inquiry.

It recommends the DPP consider larceny charges against Mr Hartcher and that charges be considered against Mr Tripodi for the common law offence of misconduct in public office.

The commission found that former Liberal Party official Simon McInnes, party fundraiser Paul Nicolaou and Canberra lawyer Tony Bandle used a Liberal Party-linked entity, the Free Enterprise Foundation, to "channel" illegal political donations to the NSW Liberal party for its 2011 state election campaign.

This was done "so that the identity of the true donors was disguised from the election funding authority".



*Chris Hartcher leaves the Independent Commission Against Corruption after giving evidence in 2014 Photo: Daniel Munoz*

The report found that there was insufficient evidence to conclude that other senior Liberal party officials including now Senator Arthur Sinodinos - then chair of the Liberal Party finance committee - knew of the practice.

However, the report found that the Liberal Party received \$693,000 in donations in three days from a single donor - the Free Enterprise Foundation - "but no one on the finance committee admitted to knowing anything about it in their evidence".

In 2009, the year before the ban on donations from property developers came into force, the Free Enterprise Foundation donated only \$50,000 to the NSW Liberals.

The matter is the subject of an ongoing dispute between the NSW Liberals and the election funding authority, which is withholding \$4 million in public funding until the party discloses the names of donors to the Free Enterprise Foundation.

The commission recommends charges of larceny be brought against Mr Hartcher over three cheques worth \$4000 written for the benefit of the NSW Liberal Party.

It found the cheques were instead banked by a law firm and later given to Mr Hartcher.

"These steps are inconsistent with an intention on the part of Mr Hartcher to apply the \$4000 for the benefit of the NSW Liberal Party," the report finds.

The commission found Mr Tripodi, as a Member of Parliament, leaked a confidential Treasury report to advance the interests of former mining magnate Nathan Tinkler's company Buildev in February 2011.

Buildev was proposing a fifth coal terminal at Mayfield in Newcastle, which was being opposed by Mr Tripodi's colleague Jodi McKay, who was then the Member for Newcastle.

The report was a review of the proposed uses for Mayfield, which contained adverse comments about the Buildev proposal, which was worth hundreds of millions of dollars.

The commission found that despite his denials to the inquiry, then Labor treasurer Eric Roozendaal "either directly or indirectly ... passed the Treasury report to Mr Tripodi".

However, the commission says it is not satisfied that Mr Roozendaal knew what Mr Tripodi was doing.

The ICAC finds Mr Tripodi engaged in serious corrupt conduct by "betraying his duties and obligations as a member of parliament to favour Buildev for the purpose of achieving a personal advantage".

"The conduct could constitute or involve a serious criminal offence of misconduct in public office," its report states.

The commission says Mr Gallacher willingly evaded election funding laws via his involvement in a political fundraiser at Doyle's restaurant in New Year's Eve 2010.

It finds Mr Gallacher invited a property developer, Buildev executive David Sharpe, to pay \$7000 to attend the event along with other Buildev employees.

"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," it says.

The commission says it "does not consider Mr Gallacher was always a truthful witness and place no reliance on his evidence unless it is corroborated".

In late 2010, the report says, Mr Gallacher, Mr Hartcher and David Williams of Buildev were involved in donations totalling \$53,000, via the Free Enterprise Foundation, earmarked for the seats of Newcastle and Londonderry.

The ICAC finds that as part of this, Mr Bassett solicited an \$18,000 donation from Buildev for his successful 2011 election campaign to win the seat of Londonderry.

The ICAC notes that in relation to breaches of election funding laws "at the time of the relevant conduct" in 2010 there was a three-year limit on bringing prosecutions, which is why no prosecutions are being recommended.

"That means any prosecution for any offence arising under the Election Funding Act arising from this investigation is now statute barred".

The inquiry was sparked by a \$5000 donation a Central Coast builder Matthew Lusted believed his company had made to the NSW Liberal party but had in fact been made to a company, Eightbyfive, owned by Mr Koelma.

The Liberal Party reported Mr Lusted's concerns to the Election Funding Authority, which subsequently alerted ICAC.

The 2014 inquiry into Liberal Party fundraising before the 2011 NSW election saw 10 MPs quit the parliamentary party and move to the crossbench following adverse evidence.

Two of them, Newcastle MP Tim Owen and Charlestown MP Andrew Cornwell, resigned from Parliament.

The revelations prompted an overhaul of NSW political donations laws by Premier Mike Baird.

The new laws beefed up penalties to a maximum 10 years imprisonment and extended the period within which prosecutions can be launch from three to 10 years.

<http://www.smh.com.au/nsw/operation-spicer-larceny-charges-recommended-against-former-minister-chris-hartcher-20160829-gr451q.html>