



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](http://www.police.govt.nz)

*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.

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