

Senate Inquiry into Associated Entities of Political Parties and Related Matters Submission from the Australian Labor Party – Northern Territory Branch

Our Democracy

It is widely accepted in Australia that the fundamental requirements of a democracy functioning in the public interest comprise:

1. A universal franchise under which all eligible citizens have the opportunity to enrol and vote;
2. Fair electoral boundaries based on the principle of “one vote one value” drawn up by an independent Redistribution Committee free from political influence;
3. Free and fair elections conducted by impartial and independent electoral officials;
4. An open and transparent reporting system for the disclosure of donations to political parties, candidates and associated entities.
5. Public confidence that breaches of Electoral legislation (and related legislative instruments) will be thoroughly investigated to support prosecution of serious breaches of the law and to maintain confidence in our democracy and its vital institutions.

These fundamental principles and foundation stones of our democracy underpin institutional arrangements in Commonwealth, State and Territory jurisdictions.

The focus of the Senate’s Inquiry (the Inquiry) into Commonwealth legislative provisions in relation to oversight of associated entities of political parties is directly relevant to principles (4) and (5) above.

But it is important to remember that deliberate and systemic breaches of the donations disclosure provisions, and any failure to prosecute them, undermines public confidence in the totality of our democracy and its vital institutions.

The Northern Territory Context

There is substantial similarity between the donation disclosure provisions set out in Part 10 of the Northern Territory Electoral Act (NTEA) and those enumerated in Part XX of the Commonwealth Electoral Act (CEA).

Under section 195 of the NTEA, a political party registered in both jurisdictions can comply with its disclosure obligations under Territory law by lodging a copy of a disclosure return made under section 305B of the CEA for the relevant period.

One difference between the jurisdictions is the much lower monetary threshold for disclosure in the NTEA. It is our view that the lower threshold for disclosure in the NTEA (\$1,500) increases transparency and accountability.

Transparency and accountability could also be enhanced through more frequent online reporting of donations to political parties and associated entities as defined by the CEA.

It would be open the Inquiry to recommend lowering of the disclosure threshold for donations in the CEA (currently \$12,400) and more frequent online reporting of donations.

In the Northern Territory there has been substantial media coverage, Parliamentary debate and community disquiet about the activities of Foundation 51 Pty Ltd (F51) – an associated entity of the Country Liberal Party (CLP).

Both F51 and CLP have consistently failed to comply with disclosure provisions set out in Part XX of the CEA (and Part 10 the NTEA).

The breaches of the law by F51 and the CLP could be considered in the context of the terms of reference for the Inquiry to inform proposed amendments to the CEA.

Foundation 51

Both the CLP and F51 have committed clear and indisputable breaches of the law by failing to disclose donations (including in kind support) consistent with the requirements of the CEA (and the NTEA).

These breaches of the law are not the occasional omissions and administrative mistakes made by all organisations from time to time.

Rather, they are part of an orchestrated, systemic and endemic strategy to circumvent the disclosure provisions in the CEA (and the NTEA).

Leaked documents, Parliamentary debates and extensive media coverage confirm ongoing activity by F51 and the CLP to cover up the extent of their relationship and related breaches of disclosure laws (Attachments 2 and 3 refer).

A seminal document in exposing these transgressions is a leaked email of 26 November 2012 from then F51 Director, Graeme Lewis to Members of the CLP executive committee and then CLP Chief Minister Terry Mills (Attachment 1).

The Inquiry will note the email sets out substantial financial and in kind support provided by F51 to the CLP over many years commencing in 2008/09.

Much of this financial support was never declared by the CLP or F51 within the mandated timeframes for disclosure returns lodged with the Australian Electoral Commission (AEC) or the Northern Territory Electoral Commission (NTEC)*.

It is instructive, in this context, that Mr Lewis's email of 26 November 2012 states, inter alia:

"Like you, I will be mortified if this information becomes widely known. It must be closely held for obvious reasons"

The Lewis email indicates expenditure of \$216,573 on activities associated with the 2012 NT general election.

It also states:

"In the months to 31 August (2012) another \$200,000 was received, spent on polling \$110,000, consultants re the debt strategies and policies, concept development \$34,160, plus travel, McGrath outgoings etc. Once again, the contributors were clearly aware, and did generally stipulate that the funds raised would be devoted to NT elections in 2012 or thereafter."

These financial transactions should have been declared within the stipulated timeframes under the donation disclosure provision in both the CEA and the NTEA.

Despite persistent denials by F51, Executive members of the CLP and the Chief Minister of the Northern Territory, there has been a close and ongoing relationship between F51 and the CLP (see Attachments 2 and 3).

The attachments beg the question - why did F51 and the CLP consistently deny the close and ongoing relationship between them which is clearly evident on the public record?

All of the above is prima facie evidence of a systematic scheme to circumvent the donation disclosure provisions in the CEA and the NTEA.

In the context of the current legislative regime for the disclosure of political donations, the Inquiry could reasonably ask itself (and others) why such blatant breaches of the CEA were not detected and prosecuted.

Over a protracted period, to avoid disclosure of its relationship with the CLP and the extent of its financial support, F51 denied that it was an associated entity under the CEA. This denial was always inconsistent with relevant legislative provisions.

Under the pressure of media exposure of its activities and investigation of complaints by the AEC and NTEC, F51 capitulated and lodged late disclosure returns with both electoral commissions.

It would be open to the Inquiry to examine whether the definition of “associated entity” and related provisions in the CEA require clarification and enhancement or whether enforcement of the law is better served by the broad and general approach captured by the current definition.

Complaint to the AEC

On 12 May 2014 the Australian Labor Party (NT Branch) lodged a complaint with the AEC concerning breaches of Part XX of the CEA by F51.

On 5 August 2015, some fifteen months later, a five paragraph letter from the AEC (Attachment 4) confirmed:

1. An investigation had been conducted into the matters raised in our complaint;
2. Foundation 51 had lodged late returns for 2011-12 and 2012-13;
3. The AEC is of the view that the legislative objective of Part XX of the CEA has been achieved; and
4. The AEC did not intend to take any further action regarding F51’s non-compliance with the disclosure provisions mandated in the CEA.

It is very significant that in conducting its investigation the AEC had access to, inter alia, the email of 26 November 2012 from Graeme Lewis to the CLP executive committee which disclosed the scope of financial and in kind support provided by F51 to the CLP over many years.

We disagree with the AEC’s decision and the findings summarised in point 3 above.

In our view the objectives of Part XX of the CEA have not been achieved and the Commission’s decision is a green light to political parties and associated entities contemplating non-disclosure or late disclosure of returns mandated by Part XX of the CEA.

For the purpose of the current Inquiry the AEC could be invited to provide submissions on whether resource deficits or legislative deficiencies in the current CEA disclosure regime, or other impediments, contributed to its findings and decision in relation to our complaint.

This would also serve the purpose of enhancing community confidence in the institutional arrangements that underpin our democracy articulated in principle (5) above.

Relationship between Foundation 51 and Crosby Textor

A disclosure return submitted to the AEC by F51 in 2013/14 indicates a receipt of \$33,000 from Kormilda College – a Darwin based non-Government school.

But an article in the Saturday Paper on 14 February 2015 (Attachment 5) confirms the consultancy paid for by the college was actually undertaken by Crosby Textor – long standing researchers and political advisers to conservative political parties federally and in the States and Territories.

A notice subsequently placed on the schools website indicated that the consultancy was undertaken by Crosby Textor and “that the Board was never aware that Foundation 51 had any involvement in the process.”

When contacted by the Saturday Paper Mr Lewis stated that he subcontracted some of the work to Crosby Textor and that F51 paid Crosby Textor for its work but he could not recall how much was paid.

Similar issues were raised in an ABC report on 2 February 2015 (Attachment 6).

The opaque relationship between F51 and Crosby Textor is characteristic of the Foundation’s general method of operation and lack of accountability.

It is not clear whether the AEC made inquiries or conducted investigations following these media reports.

It would be open to the Inquiry to examine the subject disclosure made by F51 and related documentation and contemplate whether strengthened disclosure provisions or investigative powers are required whenever similar circumstances arise in the future.

Similarities between Foundation 51 and Eight by Five

There are striking similarities between F51 and the Liberal Party entity Eight by Five whose activities could be captured by the Inquiry’s terms of reference.

Both entities were established to hide political donations and circumvent the disclosure provisions in the CEA and relevant State/Territory electoral legislation.

In New South Wales the Independent Commission Against Corruption exposed systematic rorting of disclosure provisions and other corrupt and illegal behaviour by the Liberal Party.

The NT does not have an ICAC.

Conclusion

The people of the Northern Territory want their democracy to be founded on the inter-related guiding principles set out above.

Territorians have the reasonable expectation that Commonwealth and Territory electoral law and related legislative instruments will embody sound and enforceable provisions that protect our democracy and its vital institutions.

This expectation extends to investigation and prosecution of calculated and systemic breaches of the donation disclosure provisions set out in the CEA and NTEA.

~~HON SYD STIRLING~~
President
Australian Labor Party – NT Branch

*Relevant AEC and NTEC donation returns submitted by F51 and the CLP are on the public record and have not been incorporated in this submission to the Senate Inquiry.

List of Attachments

1. Email of 26 November 2012 from Graeme Lewis to CLP Executive Members.
2. NT News article of 3 April 2016 and related documentation.
3. Foundation 51 and the CLP – various media reports, Hansard extracts and documentation.
4. Letter from the AEC to NT Labor Party Secretary, Kent Rowe.
5. F51 and Crosby Textor – article in the Saturday Paper, 14 February 2015.
6. F51 and Crosby Textor – ABC report, 2 February 2015.

ATTACHMENT 1

From: Graeme Lewis
Sent: Monday, 26 November 2012 8:47 PM
To: ; Daniel Davis; Ross Connolly; Terry Mills
Subject: Re: Presidents questions

Good Evening Braedon,

I note your comments that you have not and will not threaten me, and that writing of our friendship, you "hope the current status quo will remain." I cannot see that any of my emails "jeopardise the Party and others," any more than do yours. Indeed I am trying with great patience to address the issues you have created to prevent any jeopardy to the Party.

And so it is that I simply MUST respond to your allegations about Foundation 51. I have discussed its MO with Terry Mills, and I do think that the only solution, especially after this exchange is that it be wound up - a great shame in my opinion.

After several weeks of fending off requests for refunds from donors to the Party and F51, and the breaking of commitments by one company - I have no earthly need to know or understand what happened there, as I was only reporting on "income streams" or lack thereof - and now this latest refund request comes from you of all people. Disappointing to say the least.

Your contribution to F51 was in June 2009. You were drawn in by Lantry, and you have sent me the manifest that he published as a newsletter. There is in my view, no inconsistency at all between the positions outlined by him and by me.

You will recall that in 2009, the NT was dealing with a hung parliament, and the CLP was preparing for a snap election. We worked bloody hard to place ourselves in a strong position for that election - which of course never happened but it could have.

Lantry and the strategists spent a bundle of money - more in fact than was raised. The income in the year to 30 June 2009 was \$206,090, including your welcome contribution of \$20,000. However, spending reached \$240,083, which included \$187,374 of professional fees to researchers and pollsters. All the money raised was spent and overspent.

That shortfall was made up in the 2010 year, when revenue reached \$143,682, and spending on research and functions reached only \$111,989, thus covering the shortfall of the previous year. In 2010/2011, revenue was \$105,318, and expenses totalled \$104,109, showing a small profit. Member revenue fell off, and functions were important to meet the research costs that were essential, aimed at preparation for the inevitable 2012 election.

I suggest therefore that your 2009 contribution was more than well spent according to the Lantry manifest. The smaller number of participants in our programme as time went by, may have been the result of Lantry leaving the NT, but the programmes had to be continued as far as possible. During this time, such concepts as the CLP's planning strategy, its alcohol policy and the law and order strategies were being formulated, costing lots of money, and the success achieved in these areas was borne out in August 2012.

In the year ended 30 June 2012, it was much easier to generate funds, both directly and through very successful functions. Revenue totalled \$237,227. Expenditure in that year amounted to \$224,780, which included the following:

Polling and associated research for the August Election	\$195,050
Concept Development for August Election	\$ 21,523

leaves \$20,654 over

At 30 June 2012, the Company held just \$1066.63 in funds.

which means \$106K unaccounted for.

In the months to 31 August another \$200,000 was received, spent on polling \$110,000, consultants re the debt strategies and policies \$34,000, concept development \$34,160, plus travel, McGrath outgoings etc. Once again, the contributors were clearly aware, and did generally stipulate that the funds raised would be devoted to NT elections in 2012 or thereafter.

These figures may not satisfy your curiosity, but should indicate to you that the strategies outlined by Lantry and me have been followed.

Like you, I will be mortified if this information becomes widely known. It must be closely held for obvious reasons.

Finally I turn to your frequently written and stated claim that I have "withheld" financial information from you. All the financial information relating to the Party is maintained by the staff and held at the Secretariat. You have been in your position for just 15 days, during all of which you have been in attack mode, placing me in defence mode. You have now articulated what you want to happen, so I will assist the staff to prepare whatever reports you might request, so that they can be presented either to the Finance Committee or the Management Committee. I have already had discussions with the new Deputy Treasurer, who is most anxious to participate in the processes which might ultimately meet your stated requirement.

I do resent your oft-stated intention that I should hand the "reigns over," only, it seems, on the basis that you do not want me around. But we each have our own thoughts and intentions, and as you make very clear in your email, your opinion is that the options will be played out finally by the Management Committee according to your rules. I guess I must get used to that if I want to stay involved. And I do.

Graeme Lewis

Fund no secret to CLP

ATTACHMENT 2



CHRISTOPHER WALSH

christopher.walsh@news.com.au

EXCLUSIVE

COUNTRY Liberal Party officials knew about alleged slush fund Foundation 51's involvement with the party since 2009 but did not disclose it, letters and emails released through the Freedom of Information Act show.

The letters – forwarded to the police for investigation – have now been released.

They indicate that CLP officials were still denying connections to the mysterious company to electoral commissioner Iain Loganathan until late 2014, despite its director Graeme Lewis developing policy for the party since 2009 that “(cost) lots of money” for researchers and pollsters.

Current CLP president and then-secretary Tory Mencshelyi wrote to the commissioner in a letter dated October 10, 2014 to amend the 2012-13 annual party donor returns to include Foundation 51 for the first time.

“I make this amendment based on information provided to me by Graeme Lewis (director) of Foundation 51 Pty Ltd on 22 September 2014,” she wrote. “Previously, I was unaware of this information.”

But an email from Mr Lewis two years earlier, dated November 26, 2012, to then-Chief Minister Terry Mills, former president Braedon Earley, as well as subsequent party presidents Ross Connolly and Ms Mencshelyi, clearly outlined the contributions Foundation 51 was making to the CLP.

“The income in the year to

30 June 2009 was \$206,090, including (Mr Earley's) welcome contribution of \$20,000,” Mr Lewis wrote. “However, spending reached \$240,083, which included \$187,374 of professional fees to researchers and pollsters. All the money raised was spent and overspent.”

The email continues to outline how Foundation 51 funded research and policy development for the party up to the 2012 election campaign through funds obtained from local businesses.

“During this time, such concepts as the CLP's planning strategy, its alcohol policy and the law and order strategies were being formulated, costing lots of money, and the success achieved in these areas was borne out in August 2012,” Mr Lewis wrote.

Despite being included in that email, then-party president Mr Connolly wrote in a letter dated July 17, 2014 that the CLP had no financial interest in Foundation 51.

Mr Loganathan told the NT News he was familiar with the letters and had forwarded them on to police last year.

The NT Police released the findings of their investigation last October, which indicated a prima facie case had been established with “a reasonable chance of conviction”.

However, Director of Public Prosecutions Jack Karczewski dropped the matter claiming it was not in the public interest to pursue it.

Mr Karczewski declined to comment on this story. Ms Mencshelyi did not respond to questions. Mr Lewis said Foundation 51 only contributed “in-kind donations” based on his knowledge that was used to develop policy.



18 June 2009

PRIVATE AND CONFIDENTIAL

Mr. Bill Shephard,
Electoral Commissioner
Northern Territory Electoral Commission,
GPO Box 2419,
DARWIN NT 0801

Dear Sir,

Foundation 51 Pty Ltd

We refer to your letter dated 9 April 2009 referring to matters surrounding a Company called Foundation 51 Pty Ltd. Thank you for your analysis of issues that relate to the legal reporting requirements of the Northern Territory Country Liberal Party ("Country Liberals"). We assure you of this Party's intention to adhere to the requirements of Northern Territory legislation. You have prefaced your letter by referring to correspondence from the Australian Labor Party requesting that you urgently and formally investigate "the current status of Foundation 51" and you have set out certain "assertions" which have been made. We are uncertain as to why you would comply with this request, and ask whether you propose to transmit our response to the Australian Labor Party. We are desirous to satisfy your enquiry, but not that of the Australian Labor Party.

We make the point herein that the Company, Foundation 51 Pty Ltd, is not in any way related to, or controlled by this Party. Whilst we are well aware of assertions that you raise, our enquiry of the Directors of the Company enables us to assure you that all legal requirements of this Party will be met.

Furthermore, at this time, there is no event or financial transaction that would in any way establish the relationship that you describe as an "associated entity" and variously as a "related entity."

We are not aware that the Foundation 51 Pty Ltd has given assurances to anyone about disclosure under the Electoral Act, and we have certainly advised them, consistent with your letter, that this would be inappropriate. We concede that there has been literature circulated by Foundation 51 – not this Party – that the Company is "an initiative of Country Liberals," and we have requested that the Company desist from this statement. We have however, been advised by the Directors of Foundation 51 Pty Ltd, that the business plan of the Company describes its business as, engaging in commercial activities consistent with policies of "liberal and conservative politics in the Territory."

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We will continue to monitor the activities of Foundation 51 Pty Ltd as far as it is possible for us to do so, and will without qualification, assure you, that this Party abides strictly by the reporting requirements of the relevant legislation; and in accordance with your advice.

We further advise, that we are obtaining an independent legal opinion in this matter; and if it transpires that any activity or relationship, financial or otherwise, becomes apparent between the Company and this Party, we can assure you of our intention to ensure prompt and effective compliance with both Federal and Northern Territory Legislation.

Yours faithfully,

Peter Allen
Director
Country Liberals



ABN 58 029 065 407

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17 July 2014

The Electoral Commissioner
Northern Territory Electoral Commission
GPO Box 2419
DARWIN NT 0801

Attention: Mr Iain Loganathan

WITHOUT PREJUDICE

Dear Iain,

Thank you for your letter dated 6 June 2014 advising receipt of a complaint by the Australian Labor Party (NT Branch) in relation to various documents they purport to evidence an 'associated entity' relationship between the Country Liberals (CLs) and Foundation 51 Pty Ltd (F51). I apologise sincerely for the delay in forwarding this response.

As my presidency of the CLs is relatively recent in relation to some of the matters raised in the complaint, my response to your letter is necessarily based on discussions with other senior members of the party.

Your letter provides the basis upon which the assessment must be made as to whether an 'associated entity' relationship exists, and seeks response in relation to those criteria.

The first is in relation to control. In this regard, it is my advice that F51 has been, and remains, an independent legal entity in which the CLs have no financial or management interest, and over which we certainly exercise no control. We acknowledge that Graeme Lewis is a member of our Management Committee, and also a director of F51, however I note that Mr Lewis does not report to the CLs in relation to F51, regularly or otherwise, nor do the CLs direct, instruct or review F51.

The second relates to the significance of the extent to which the entity (F51) operates for the benefit of the political party. I suggest to assess this matter requires an understanding of the breadth of operations of the entity and the amount and nature of the support provided to the party relative to its total revenues and other expenditure. While the party acknowledges that support has been received from F51, we are not aware of the significance of this support in relation to F51's other activities or its financial position. Accordingly, I regret I am unable to assist with this aspect of the assessment, but assume enquiries of F51 will allow an appropriate assessment of significance to be made. I also note that we enjoy the support of other donors from time to time that support the CLs to a more significant financial extent than does F51.

I make the following observations in relation to the documentation furnished in support of the complaint, which comprises, in chronological order:

1. A copy of a letter dated 24 March 2014 addressed to me from Deputy Treasurer Eli Melky,
2. A copy of an email from me to Graeme Lewis and others dated 26 March 2014,
3. A copy of an email from Graeme Lewis to me and others also dated 26 March 2014.

1. Eli Melky's letter of 24 March 2014.

The fact that Mr Melky felt the need to write the letter after spending a significant and active time in the party, including at quite senior levels, actually illustrates that the CLs do not maintain any close or proprietary relationship with F51.

2. My email to Graeme Lewis and others dated 26 March.
My email to Graeme Lewis does not address F51 in any respect.



3. Mr Lewis's email to me and others.

Mr Lewis's response to my email references to 2 issues of concern.

The first is said to have existed briefly several years ago, remedied promptly, and 'addressed with the AEC'. I have been unable to determine what this issue involved, but I am advised that at no time has F51 shared a PO box with the CLs.

The second issue related to the establishment of the F51 website. I am advised that F51 engaged an independent commercial service provider to undertake this task, and it is now evident that the license for the domain was inappropriately obtained in the name of the Country Liberal Party. The contracted service provider had also provided services to the CLs at that time, but was not briefed to create the website by or for the Party, nor to style the licence in this way. It was an administrative error of which neither the CL's senior management nor the directors of F51 were aware until recently. At no time did the CLs pay any domain licence establishment or renewal fees, with these costs presumably being met by F51 at all times. I am advised that when the error was identified, it was immediately remedied by the transfer of the domain licence ownership to an appropriate holder, although the record of previous 'ownership' will remain a matter of public record indefinitely.

It is appropriate to note that the activities of members of the Legislative Assembly, either as individuals or collectively as the Parliamentary Wing, is to a significant degree separate from the activities of the Party, and we are not always aware of their initiatives.

It is submitted that the trivial nature of these two matters should be assessed in the context of the behaviour of both the CLs and F51 over the years of F51's existence. The CLs have completed their annual and electoral returns diligently and honestly throughout, and I assure you that the return in relation to the recent Blain by-election will be completed accurately and honestly and lodged in a timely manner.

In regard to the financial disclosure requirements of the Act, your third dot point relates to the activities of the CLs, with the others relating to obligations of F51. I assure you that we remain committed to completing the return described accurately and completely.

The Country Liberals are committed to maintaining an honest and respectful relationship with the NTEC and AEC. We will naturally accept the outcome of your inquiry and undertake to comply fully with any changes required to future reporting.

yours faithfully
Country Liberals

Ross Connolly
President

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10 October 2014

Mr Iain Loganathan
Electoral Commissioner
Northern Territory Electoral Commission
GPO Box 2419
DARWIN NT 0801



Dear Mr Loganathan,

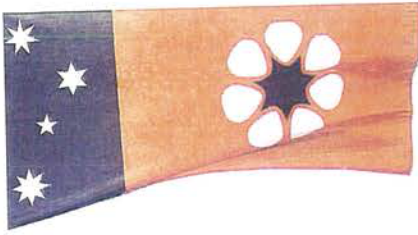
I am writing to you as Party Agent for the Country Liberals (Northern Territory) for the purposes of the Northern Territory Electoral Commission.

Please find enclosed an Annual Return Amendment for the financial year 2012/2013.

I make this amendment based on information provided to me by Mr Graeme Lewis of Foundation 51 Pty Ltd on 22 September 2014. Previously I was unaware of this information.

Yours sincerely, 

Victoria Mencshelyi 



ABN 58 029 065 407

GPO Box 4194 DARWIN NT 0801
Tel 08 8948 1744

Web www.countryliberals.org.au
facebook.com/CountryLiberals

31 October 2014

The Electoral Commissioner
Northern Territory Electoral Commission
GPO Box 2419
DARWIN NT 0801

Attention: Mr Iain Loganathan

Dear Iain,

I acknowledge receipt of your letter dated 07 October 2014 in relation to the matter of Foundation 51 Pty Ltd (F51), and note the provision by them of a late donor return covering the 2012 election. You note that F51 is proposing to comply with the disclosure requirements of an 'associated entity' of the Country Liberals, but your letter does not make clear whether this intention applies from the inception of the Company or some later date.

Your letter invites the Party to reassess its relationship with F51 and to reconsider returns lodged since the inception of F51 in February 2009.

The Party asserts that its returns throughout the period from 2009 have been completed in good faith and in accordance with the then held records.

From the material newly provided by you, the Party now understands that F51 provided 'in-kind' support to the estimated value of \$20,000 in relation to the 2012 election. Accordingly, the Party has already lodged an amended return matching the 'in-kind' support declared by F51. We have no basis for attributing a value to this support other than acceptance of the value declared by F51.

The Party understands that F51 undertaking of their own volition to comply with the disclosure requirements of an 'associated entity' of the Country Liberals generates obligations more for them than the Party. In preparing future returns, however, we will seek formal advice from F51 in regard to what, if any, declarations of 'in-kind' support they are planning to make, and include a matching entry on our declaration,

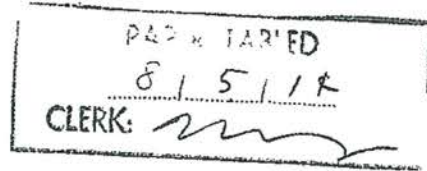
yours faithfully
Country Liberals

Ross Connolly
President

ATTACHMENT 3

From: Graeme Lewis
Sent: Wednesday, 26 March 2014 10:14 PM
To: Ross Connolly
Cc: Eli Melky; Daniel Davis;
Subject: RE: SMS messages to Eli Melky

Laid upon the table
815114



WRITTEN AND SENT IN ABSOLUTE CONFIDENCE

Good Evening Ross,

Thank you for your email/letter. I note that it is copied to three other gentlemen, and therefore I shall respond in that same way.

There is an old mission statement used by a well-known service club "to build up and not destroy," and you have been the epitome of exercising that mission throughout your Presidency. I commend you for that, and in that same spirit, I too offer you this response.

I note that Mr Melky tabled two transcripts of SMS items that I sent to him. In fact I sent four such messages and he responded in kind with four also. Would you like to see all of them? Whilst I do reject his characterisations, I recognise that I was justifiably angry with his actual and implied various attacks on both you and me, on Saturday and in his letter. I can give you the undertaking you request that all future written communications from me, whether by text, email or letter to anyone, will be professional and respectful. Indeed there shall be none, after this.

I do hope you will find this response meets the criteria to be professional and respectful.

I acknowledge that as Deputy Treasurer (not "assistant" -am I right?), Mr Melky may well be entitled to information regarding the Party's finances, and I did previously offer to assist him in his mission, but that was in vain. But his letter to you stepped well outside of that range of enquiry, and canvassed other issues to which he is not necessarily entitled, by virtue of his Deputy Treasurer position. The information regarding Party finances is of course freely available from elected officers of the Party, including your good self. I have recently briefed one of the Vice Presidents and of course the Treasurer.

Ross you did advise me of the discussions this morning regarding Foundation 51, and I thank you for that. Out of that discussion came two issues that may well be breaches in the wall that must rightly exist between the Party and the Foundation. One of those issues was remedied within days of it occurring several years ago, but I am well aware of that item remaining on Google pages to this day. Perhaps Daniel knows how to deal with that too. The matter has long ago been addressed with the Australian Electoral Commission, and is an issue no longer.

The other matter - that of the domain address and ownership - you brought to my attention just today. It is quite disappointing that this has in fact been known to members of the team even for years, but was never ever advised to me as a member of the team. The position will now be remedied as quickly as possible. It may or may not be prudent to raise the issue with

the AEC. I think not, but I shall refer it for further confirmation, and I will advise you personally Ross. Facts are facts, and whilst regrettable, as long as they are addressed when identified, I believe the bonafides of the situation will win out. The error was made by an IT operative who has in fact also worked professionally for the Party and the Parliamentary wing in this IT area, and he is today licking his wounds. I would recommend that his services be terminated, although he is a financial Life Member. The Foundation has in fact always paid the fees attached to this domain registration.

But the issue of the Foundation does need to be clarified. The wide canvassing by Mr Melky's widely-circulated letter, of the existence of Foundation 51 and its now-claimed relationship with the Party, draws the whole matter into wide focus. The intent of Mr Melky to further canvass issues of the Foundation at future meetings causes me to actively consider disposing of the whole concept, refund the monies in hand, and forfeit the opportunities that have been built in past years, to assist in the political spectrum of the Northern Territory. It would be a shame, just to satisfy the egos of a few, and one hopes that garage sales will be able to replace the Foundation in providing adequate resources for future profile building. I have made the Chief Minister aware of this probability, much to his concern. He and I have on many occasions discussed the matter of the Foundation, and he is well disposed to having the Foundation continue its activity, with the wall between the entities currently, fixed in place.

I reiterate to you that I believe I am duty bound to advise other people, including contributors, of the danger now at hand that the wall will be torn down. I cannot know how this can now be resolved. The horse may well have bolted already, and the more public discussion that takes place, the more I personally with others, are vulnerable, and accountable to the many contributors who support the Foundation regularly. I cannot fathom what is the motivation of those who would attack in this way, what has been built with great success and goodwill, and I have to question how many garage sales and golf days will be needed to produce the many millions of dollars that will be required before the end of the year 2016.

Indeed a plan to set up a communication network under the F51 banner, must now be scrapped. The Foundation has already contributed significantly towards the activities of the Blain by-election. In retrospect - not clever in view of this current interrogation!

Your email did not canvass the issue of the Foundation, but I am compelled to comment, knowing the tenor of the letter from Mr Melky, the certainty that these matters were discussed this morning, and regrettably, will be again.

You have sought commitment from me to "commence this task" of addressing the audit backlog soon after the completion of the by-election, and I give you that commitment. I note the timetable you have set and I hope your timetable is achievable! The dollar cost will be considerable and is not included in the budget.

Ross I have long enjoyed the cut-and-thrust of politics. I do ask you whether you think our Party has outgrown the concept of family and teamwork as it used to be. Process is essential, I readily agree, but there seems to be so much effort in many quarters these days,

put into destroying what we achieved when we won Government in 2012, and through the forty years prior. Sitting in the Parliament today, I was drawn to reflect on the massive responsibility that is with our Parliamentarians, responsibility that we have thrust upon them, and I considered whether our Party was in fact worthy to support them as we should. This interchange with Mr Melky causes me to wonder more, but I will, from here on, keep my thoughts to myself, as I have promised.

In the meantime, as you anticipate, I assure you of my cooperation, to the extent I am able.

Although I have herein pondered some questions to you Ross, it is preferable you do not respond in written form to this email, and we should simply let the matters rest.

Best Regards,

Graeme Lewis
Management Committee Member

Date: Wed, 26 Mar 2014 01:16:37 -0700

From:

Subject: Your SMS messages to Eli Melky

To: £

CC: †

Graeme,

Today our assistant treasurer, Eli Melky, met with me and our vice presidents to raise further concerns arising from his recent letter to me that was copied to Management committee and Branch Chairs.

Eli tabled the content of two SMS messages sent to him by you responding to his letter to me, and expressed in the strongest terms his concern that your attitude in the texts was demeaning, dismissive and very inappropriate. He correctly noted that as assistant treasurer he was both entitled and duty bound to understand the finances of the party, and that it was entirely unacceptable that you, as former treasurer, would deny him information relevant to the financial management of the Party and refuse to engage with him in the future.

Graeme, I agree with Eli that your texts were intemperate and inappropriate, and I require your undertaking that all future written communications, whether by text, email or letter will be professional and respectful. We're all members of a volunteer organisation, and energy spent sniping at each other is energy lost to the cause of keeping the country Liberals in Government.

At the same meeting, we also discussed the task of completing the audit backlog, and I seek your commitment to commencing this task soon after the completion of the by-election. I am happy to assist as I'm sure Tony Schelling will be, coincidentally affording an appropriate opportunity for Tony to learn a great deal more about the financial management of the party. I have committed to completing this task in time to deliver fully audited accounts to this year's Annual Conference, including the backlog.

I look forward to your cooperation in these important matters.

regards

Ross Connolly
President

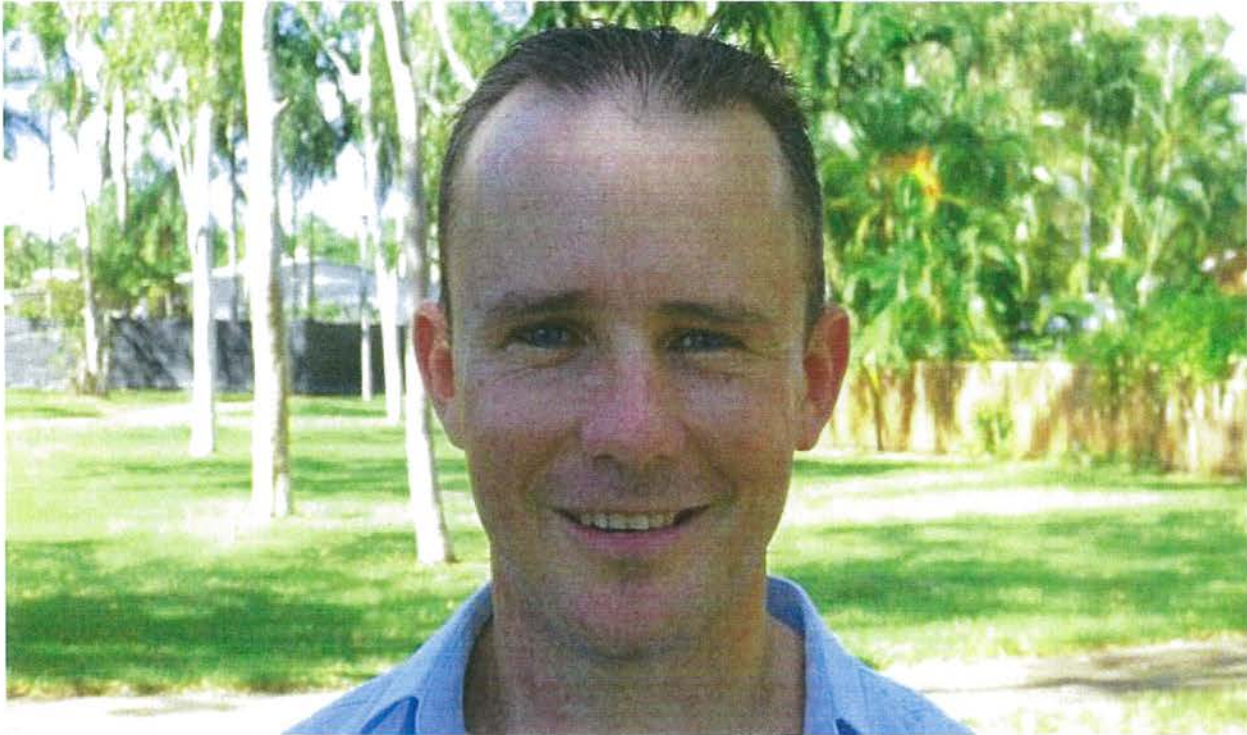
news.com.au National

Candidate loaned \$10,000 by man he had never met during Northern Territory by-election

BY: CHRISTOPHER WALSH

FROM: NT NEWS

JANUARY 22, 2015 2:52PM



Member for Blain Nathan Barrett. Picture: supplied Source: Supplied

CLP fundraiser and Foundation 51 co-founder Graeme Lewis says he gave his old “friend” Nathan Barrett a \$10,000 loan to live on during the Blain by-election last year.

But Mr Barrett said he had never met Mr Lewis until he showed up one day offering \$10,000 to be paid back only if he won the election.

Mr Lewis insists the money did not come from Foundation 51 or the Country Liberal Party.

“Absolutely not. It was my personal money,” Mr Lewis said. “He was a candidate in the election, he was a friend of mine, he was out of wages for two months so I gave him some money to pay his house mortgage. I knew him quite well.”

Under NT election law, it is not illegal for an individual to loan a candidate money during a campaign.

Leaked emails written by Mr Lewis, revealed by the *NT News* last year, showed Mr Lewis saying Foundation 51 “contributed significantly” to the CLP’s Blain by-election campaign.

He said he had statements that proved the \$10,000 loan came from his personal account.

Foundation 51 recently filed disclosures with the Australia Electoral Commission that show it operated as an associated entity of the Country Liberals NT. Previous statements by party members indicated the two were not connected.

Mr Barrett said the terms of the loan from Mr Lewis were: "If you win, pay it back as soon as you can. If you don't win, we'll call it a day and you know, I lost 10 grand – which I thought was pretty good of him but I had actually never met him before that."

He added he was introduced to Mr Lewis by a mutual friend and party member. Mr Barrett said he had nothing to do with Foundation 51 during the election or after and paid back the loan to Mr Lewis.

NT Electoral Commissioner Iain Loganathan is investigating Foundation 51 and has launched an independent audit of political donations.

Originally published as [Pre-poll loan for a 'friend'](#)

Question Transcript - 07/05/2014

Foundation 51 – Transparency in Donations

Mr WOOD to CHIEF MINISTER

Yesterday you spoke about transparency in election donations. To back up what you said, could you please tell parliament whether Foundation 51, whether a private company or not, contributed to the Blain by-election - either to the candidate or the party - and what was the amount contributed? Is it not possible that businesses or individuals, who want to contribute to the CLP and want to remain anonymous, can use Foundation 51 as a front to achieve it, meaning the party can sidestep election donation disclosure rules?

ANSWER

Madam Speaker, I am not sure if the member for Nelson heard a couple of my first answers. **There is no direct connection between Foundation 51 and the party.** How the Blain by-election was funded is a matter for the party. **The party ran the election, not anyone on this side of the Chamber,** so I suggest you put your question to the party or Foundation 51.

Full Text Transcript - 17/02/2015

This is an uncorrected proof of the daily report. It is made available under the condition that it is recognised as such.

Ms FYLES (Nightcliff): Madam Speaker, tonight in this adjournment debate I want to express my concerns about a real threat to our Territory democracy. Subject to a couple of provisions, there is nothing wrong with donations to political parties. The first provision is donations are properly declared in accordance with disclosure laws for donors, political parties and associated entities set out in the Territory and Commonwealth Electoral Acts. The second provision is donations do not come with strings attached.

The strong donation disclosure provisions set out in both acts are intended to ensure transparency, accountability and integrity in our democratic processes. The substantial penalties for breaches of the disclosure provisions and the strong powers of investigation conferred on both the electoral commissions reflect the intention of our parliaments to protect the integrity and viability of our precious democracy. No excuse or exception should be made for any individual, political party or associated entity which deliberately breaches the disclosure laws.

It is blatantly clear from the late disclosure returns and leaked e-mails that both the CLP and Foundation 51 have breached the disclosure provisions enumerated in both Territory and Commonwealth electoral laws.

We know from a leaked e-mail tabled in this Assembly that Foundation 51 Director, Graeme Lewis had discussed Foundation 51 with the Chief Minister on many occasions. More recently, the member for Blain has admitted receiving a \$10 000 loan from Mr Lewis in the run-up to the Blain by-election, and former magistrate and Foundation 51 director, Peter Maley has disclosed a \$50 000 donation to the CLP when he was serving as a magistrate.

Recently, more than two years after the mandated deadline, Foundation 51 has disclosed a donation of \$200 000 to the CLP. **Until recently the Chief Minister has denied any knowledge of a relationship with Foundation 51. In a rare moment of truthfulness if not leadership he said of Foundation 51, 'I think that it's time for someone from the CLP to do something in this regard. It obviously smells.'**

I understand that complaints about breaches of disclosure provisions by both the CLP and Foundation 51 have been referred to the Northern Territory Electoral Commission and the Australian Electoral Commission. I am not aware of the current status of any investigations initiated by the two commissions but there is a reasonable public expectation they will take strong action to protect our democracy. They certainly have the powers to do so.

A leaked e-mail from Foundation 51 director Graeme Lewis to then CLP President, Braedon Early sets out income and expenditure for Foundation 51 over many years. Much of this income and expenditure has never been disclosed as required by the Electoral Act. In the e-mail Mr Lewis states unequivocally, 'Like you, I will be mortified if this information becomes widely known. It must be closely held for obvious reasons.' This e-mail, together with other documentation on the public record, is prima facie evidence of a conspiracy to circumvent the provisions of both Electoral Acts.

It would be appropriate, in my view, for these matters to be referred to police and the DPP in the relevant jurisdictions.



03 Feb 2015
Northern Territory News, Darwin

Author: Cristopher Walsh • Section: General News • Article type : News Item
Audience : 14,613 • Page: 9 • Printed Size: 273.00cm² • Market: NT • Country: Australia
ASR: AUD 1,533 • Words: 391 • Item ID: 368247740

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Page 1 of 1

Maley defends giving cash donations to CLP



CHRISTOPHER WALSH
christopher.walsh@news.com.au

FORMER magistrate Peter Maley donated \$50,000 to the CLP while he was a magistrate, violating judicial guidelines, according to new disclosures released by the Australian Electoral Commission.

But Mr Maley told the *NT News* he sees nothing wrong with his support for the political party even while sitting as a member of the judiciary.

"I make no secret I'm heavily mixed up with the CLP and a

big supporter," he said. "I made a financial donation and declared it.

"There are guidelines, but they are just guidelines and they are subject to individual interpretation."

Mr Maley's personal disclosure form notes the date of his donation as March 28, 2014 – just weeks before the Blain by-election and six months after becoming magistrate.

Mr Maley was at the centre of a political scandal in August 2014 when he abruptly resigned after being asked 13 questions by the *NT News* into his alleged involvement in a cash for access deal.

NT Parliament heard claims Mr Maley promised a former legal client access to sensitive government documents in 2008, in exchange for a \$10,000 donation to the CLP.

He confirmed yesterday

that the \$50,000 donation was his own money.

"This is my money that I spent supporting a political cause and party I believe in,"

he said, adding that he will do it again.

Mr Maley also came under fire last year for his involvement with the CLP and their alleged slush fund, Foundation 51. After being appointed magistrate, Mr Maley continued to help the party in the Blain by-election by handing out how-to-vote cards, donated money to his friend and Attorney General John Elferink's campaign and continued work with Foundation 51.

Mr Maley resigned from the party and Foundation 51 in May of last year, admitting he should not have been involved.

Labor Opposition renewed their calls yesterday for a full

independent inquiry into political donations.

"This is proof that (Mr Maley) was meddling in politics, funding political campaigns, absolutely contrary to the judicial guidelines," Labor's Delia Lawrie said.

Chief Minister Adam Giles defended Mr Maley in the past but declined to comment on the new donation disclosures yesterday. Attorney General John Elferink also did not respond to interview requests.

Foundation 51 recently declared itself an entity associated with the CLP with more than \$100,000 in receipts, which includes a \$33,000 donation from Kormilda College.

"I make no secret I'm heavily mixed up with the CLP"

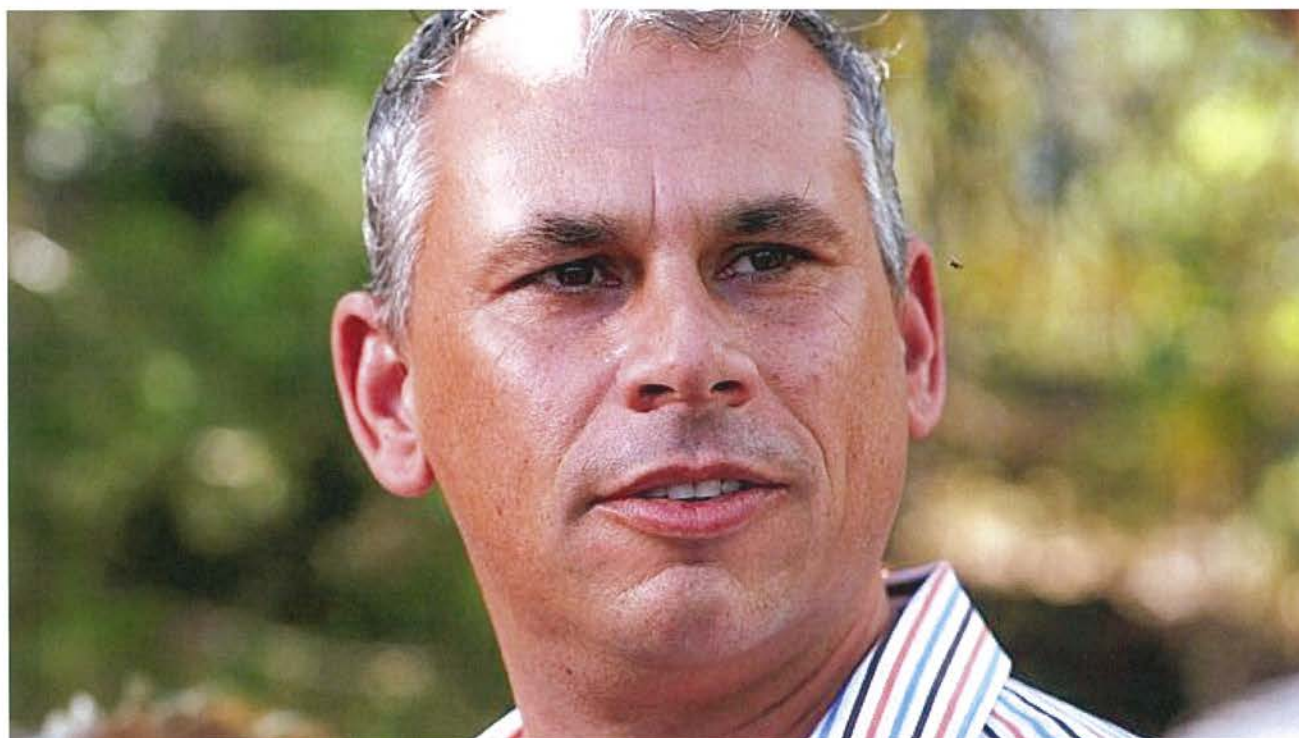
News

NT News

News

Northern Territory Electoral Commission hands Foundation 51 investigation to police

- by:
- From: NT News
- April 15, 2015 2:51PM



Chief Minister Adam Giles has previously distanced himself from the Foundation 51 controversy
Source: News Corp Australia

AN investigation into complaints alleging Foundation 51 had failed to comply with disclosure obligations of the Electoral Act (NT) has found there has been a possible breach of compliance provisions.

The preliminary investigation, conducted by the Northern Territory Electoral Commission, found a possible breach based on information collected through the investigation and legal advice from the Solicitor-General for the Northern Territory.

Information collected from the investigation has now been referred to the Northern Territory Police for further consideration.

Territory Labor had filed an official complaint. NT secretary Kent Rowe claimed Foundation 51, which is an associated entity of the Country Liberals, had broken the law.

13 Astonishing that a supposedly independent body like NTEC would bury negative news re CLP donors behind the Labor shambles. **#disgrace**

(<https://twitter.com/hashtag/disgrace?src=hash>) #ntpol (<https://twitter.com/hashtag/ntpol?src=hash>)

— Ben Smee (@BenSmee) **April 15, 2015**

(<https://twitter.com/BenSmee/status/588135037410783232>)

Under electoral funding laws, gifts in-kind to political parties must be publicly declared for fair value in the same manner as cash donations.

Foundation 51 solicits “memberships”, offering members access to “research, reports and information gathering”. Its activities and list of members are largely secret, but a flyer published online in 2009 showed two levels of memberships at the time cost \$5500 and \$22,000 a year.

When the conduct of Foundation 51 first came into question, ASIC records listed NT Land Development Board chairman Graeme Lewis, a member of the CLP management committee, and former politician and criminal lawyer Peter Maley as directors.

News

NT News

News

High-flyers embroiled in CLP-allied 'research' fund

- by: By BEN SMEE
- From: NT News
- May 07, 2014 11:50AM

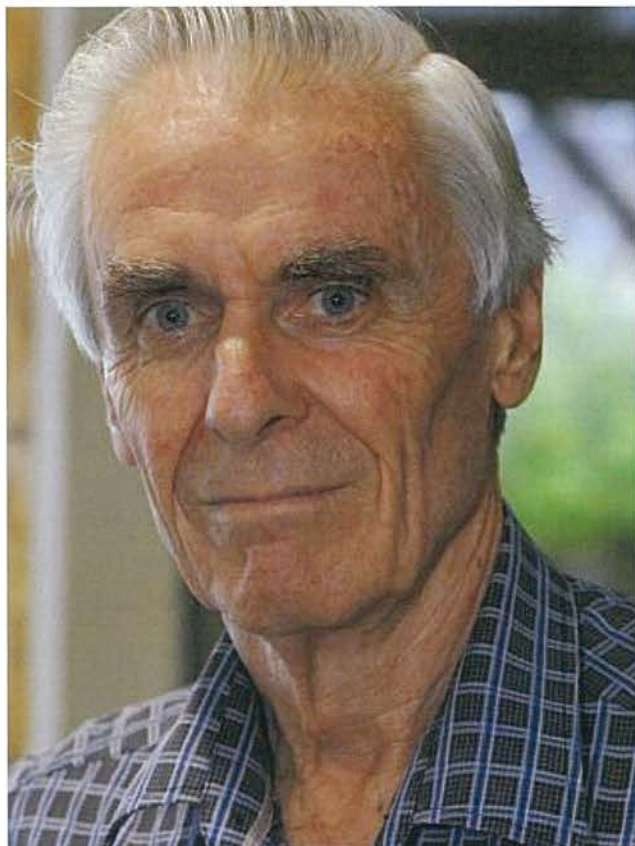


Business Minister Dave Tollner greets Graeme Lewis greets Foundation 51 and senior public servant Dave Tollner.

Source: News Limited

A SENIOR public servant and magistrate are directors of a Country Liberal Party-aligned research company that "contributed significantly towards the activities of the Blain by-election", emails and text messages seen by the *NT News* reveal.

The company solicits corporate "memberships" worth more than \$20,000.



NT Land Development Board chairman and Foundation 51 director Graeme Lewis.

Source: News Limited

CLP WIN BLAIN BY-ELECTION, RETAIN MAJORITY GOVERNMENT

(<http://www.ntnews.com.au/news/northern-territory/majority-government-restored-for-country-liberals-as-nathan-barrett-wins-blain-byelection/story-fnk0b1zt-1226882004689>)

NT Land Development Board chairman Graeme Lewis is a member of the CLP management committee and a director of a private entity named in NT Parliament yesterday as Foundation 51.

ASIC records also list former MLA and current magistrate Peter Maley as a director.

Little is known of the foundation, which does not make any public funding disclosures, but a 2009 flyer soliciting members claims it was “an initiative of the Country Liberals”.

Mr Lewis yesterday denied there were any formal links. He said the foundation was established by people with connections to the CLP and it had shared research with the party.

But Mr Lewis strongly denied it passed on financial contributions on behalf of its confidential list of members.



Palmer United Party defector Eli Melky.

Source: News Corp Australia

It is understood that Palmer United Party defector Eli Melky had demanded access to its financial records.

In a March text message in response to Mr Melky, Mr Lewis said: “any person wanting to support our cause is entitled to control of or to give guidance as to how their funds are applied and confidentiality is of course key”.

“I have an election to pay for and I don’t have the time or the inclination to honour or respect you with confidential information to which you are not entitled.”

ALICE SPRINGS TOWN COUNCILLOR ELI MELKY QUILTS CLP

(<http://www.ntnews.com.au/news/northern-territory/speculation-alice-springs-town-councillor-eli-melky-could-join-palmer-united-party-after-quitting-clp/story-fnk0b1zt-1226900837025>)

Mr Lewis confirmed to the *NT News* the authenticity of the text message and a separate email to CLP president Ross Connolly that discussed Foundation 51.

In the email he said the foundation had contributed significantly towards the Blain by-election, but clarified that comment yesterday as relating to having passed on research.

“Some people would regard that as an in-kind contribution (but I don’t),” Mr Lewis said.

Foundation 51 solicits “memberships” and offers members access to “research, reports and information gathering”. Its activities and list of members are largely secret, but the flyer published online in 2009 showed two levels of memberships were at the time worth \$5500 and \$22,000 a year.

In his email, Mr Lewis said a wall “must rightly exist between the party and the foundation”.

“I believe I am duty bound to advise other people, including contributors, of the danger now at hand that the wall will be torn down,” he wrote. “One hopes that garage sales will be able to replace the foundation in providing adequate resources for future profile building.

“I have to question how many garage sales and golf days will be needed to produce the many millions of dollars that will be required before the end of the year 2016.”

Mr Lewis said references in his email to the foundation and “many millions of dollars” required by the 2016 election are not linked – that they relate separately to his roles as a director of the foundation and a management committee member of the CLP.

The email also detailed discussions about the foundation with Chief Minister Adam Giles and said "he is well disposed to having the foundation continue its activity, with the wall between the entities currently fixed in place".

Mr Giles, when asked yesterday about the entity by Palmer United Party leader Alison Anderson in Question Time, said: "any political donation to the party is a matter for the party, not a matter for politicians in the confines of parliament".

"A smart politician does not handle money," Mr Giles said.

Mr Lewis and Mr Melky both confirmed the texts and emails were genuine.

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Attachment C

Terry Mills held 'directorial role' in Foundation 51 while NT chief minister, emails claim

By the National Reporting Team's Kate Wild

Updated Fri 10 Oct 2014, 9:50am

Explosive emails obtained by the ABC claim that in 2012 the Northern Territory's then chief minister, Terry Mills, secretly held "a directorial role" in Foundation 51, a company that its opponents say is a private "slush fund" for the Country Liberal Party (CLP).

The email chain from November 2012 documents a heated exchange between the director of Foundation 51, Graeme Lewis, and the newly-minted CLP president Braedon Earley.

Responding to questions from Mr Earley about the purpose of Foundation 51 and who controls it, Mr Lewis wrote:

"I am the sole director and shareholder, with Terry Mills for obvious reasons, not appearing on the registers, but adopting a directorial role throughout.

"As you very well know, it was set up for, and supported by numbers of business people and has necessarily had to operate absolutely separately from the Party in order to keep its activities away from public scrutiny."

Foundation 51 Pty Ltd is currently under investigation by the Australian Electoral Commission (AEC) after allegations were made in May this year about its links to senior members of the CLP and its involvement in the Blain by-election – Ms Mills' former seat.

Senior figures in the party, including current Chief Minister Adam Giles, have repeatedly denied any knowledge of the activities of Foundation 51 and their links to the NT Government.

Mr Lewis has told the ABC he had "no intention of providing further oxygen to the mischief being created in this matter".

He also said the foundation's "business has ceased totally" and the company was being wound up.

Mr Mills also declined an interview, although he denied he had any kind of "director role" at Foundation 51.

"Irrespective of what some email may or may not suggest I have never been nor was ever regarded as a director," Mr Mills said in a statement.

Early this year he was appointed as NT's Commissioner to Indonesia and ASEAN, based in Jakarta.

Mr Earley did not return calls from the ABC.

Do you know more about this story? Email investigations@abc.net.au



PHOTO: Terry Mills denied he had any kind of director role at Foundation 51.

RELATED STORY: Foundation 51 had direct line to Giles, FOI search reveals

RELATED STORY: NT may hold inquiry into 20 years of political donations

MAP: NT

Foundation 51 money for 'election purposes'

The revelations come as governments in New South Wales, Queensland and Victoria also defend allegations of inappropriate fundraising activities and donations for legislation.

Mr Lewis' emails appeared to confirm that Foundation 51 received donations to be used for election campaigns.

In one email addressed to party director Tory Mencshelyi and dated November 22, 2012, Mr Lewis writes of Foundation 51:

"...its funds are a matter for the members [of Foundation 51] who have contributed those funds primarily for NT election purposes."

Under state and Commonwealth electoral laws, failing to declare indirect donations made to a political party is illegal.

The correspondence, which stretches over four days, is also addressed to Mr Mills, current party president Ross Connolly and current vice-president Daniel Davis.

In May this year Mr Lewis told the ABC in a statement: "Foundation 51 is simply a supporter of the CLP in political terms as are many other business organisations in the NT and has no financial relationship with the CLP."



PHOTO: Former Country Liberals president Braedon Earley at sittings of Northern Territory's Parliament. (ABC News)

Not a matter for me, says Giles

In a short statement to the ABC on Thursday, Mr Giles appeared to try and distance himself from the controversy.

"Any involvement Terry Mills, Graeme Lewis and James Lantry may have had setting up this private company is a matter for them to respond to," Mr Giles said.

Mr Lantry is a former Foundation 51 director and a former chief of staff to Mr Mills.

Mr Giles has in the past defended the party's links with the foundation in Parliament after Palmer United Party MLA, Alison Anderson, described the company as a "slush fund".

"Foundation 51 is a private company, I have no association with that, neither do any of the members of my Country Liberal Party," Mr Giles said on May 7.

However, in another email dated March 26, 2014, Mr Lewis revealed he had discussed the foundation with Mr Giles:

"He and I have on many occasions discussed the matter of the Foundation, and he is well disposed to having the Foundation continue its activity with the wall between the entities currently fixed in place ... the Foundation has already contributed significantly towards the activities of the Blain by-election. In retrospect – not clever in view of this current interrogation!"

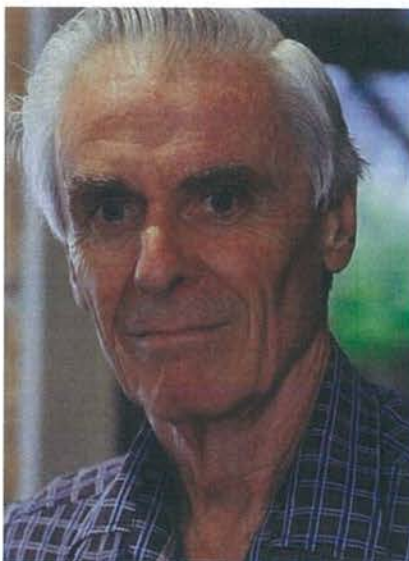


PHOTO: Foundation 51 director Graeme Lewis.

NT Opposition MP Ken Vowles used Parliament to compare Foundation 51 to the NSW Liberal Party consultancy Eightbyfive, which was investigated by the state's Independent Commission Against Corruption (ICAC).

Eightbyfive ran a trust fund that funnelled about \$400,000 in illegal donations to various NSW Government MPs.

The revelations claimed the scalps of senior minister Chris Hatcher and two other MPs.

Timeline: NT Country Liberals

- **25 Aug 2012:** Led by Terry Mills, the Country Liberal Party wins government in the Northern Territory after 11 years in opposition.
- **10 Nov 2012:** Braedon Earley is elected CLP president.

- **22-26 Nov 2012:** Email exchange between Mr Earley and Foundation 51 director Graeme Lewis.
- **6 Dec 2012:** Mr Earley resigns from the CLP presidency.
- **12 March 2013:** Adam Giles rolls Mr Mills for the leadership of the CLP while Mr Mills is on an official visit to Japan. Mr Giles appoints Dave Tollner his Deputy Chief Minister.
- **January 2014:** Magistrate Peter Maley is listed as a director of Foundation 51, three months after being appointed a magistrate by Mr Giles.
- **February 2014:** Mr Mills resigns from politics, triggering a by-election in the seat of Blain.
- **5 April 2014:** Alison Anderson, Larisa Lee and Francis Xavier Kurrupuwu quit the CLP and join the Palmer United Party (PUP).
- **12 April 2014:** A by-election to replace Mr Mills is held in Blain. The seat is won by CLP candidate Nathan Barrett.
- **30 April 2014:** Mr Earley quits the party and joins Palmer United Party (PUP).
- **7 May 2014:** Email emerges showing Mr Lewis discussed Foundation 51 with Mr Giles "on many occasions".
- **7 May 2014:** Leader of PUP in the NT, Ms Anderson, raises questions about links between Foundation 51 and under parliamentary privilege describes it as a "slush fund".
- **11 May 2014:** The NT branch of the Australian Labor Party lodges a formal complaint with the Australian Electoral Commission (AEC).
- **6 June 2014:** Mr Earley quits the PUP.
- **20 June 2014:** A Freedom of Information request by the ABC to the AEC confirms the AEC "is investigating whether the activities of Foundation 51 bring it within the ambit of the definition of 'associated entity'."
- **23 July 2014:** ABC reveals another email from Mr Lewis, dated May 11, sent to Mr Giles with a draft press release about Foundation 51 denying that it influences CLP ministers.
- **20 August 2014:** Parliamentary inquiry into political donations established in the Northern Territory.

Topics: political-parties, government-and-politics, nt, darwin-0800

First posted Thu 9 Oct 2014, 3:59pm

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'Slush fund' lodges disclosure returns

EXCLUSIVE

AMOS AIKMAN
NORTHERN
CORRESPONDENT

AN alleged Country Liberal Party "slush fund" has lodged political funding disclosure returns for the first time, after its head belatedly acknowledged the company he helped to found could be deemed an associated entity under electoral laws.

Foundation 51 has been at the centre of intense debate in the Northern Territory amid allegations the CLP hid campaign contributions made on the path to government in 2012, and has since "covered up" by scrapping plans for an inquiry.

Chief Minister Adam Giles has repeatedly denied links between the party and Foundation 51, despite leaked emails and other evidence appearing to show the contrary. Foundation 51 is under investigation by two election authorities.

The organisation's head, Graeme Lewis, told *The Australian* Foundation 51 had lodged the paperwork on legal advice as a "defensive" manoeuvre. He denied claims it had contributed hundreds of thousands to millions of dollars to CLP coffers.

"I think, in relation to 2013-14, there was some minor contributions to functions, probably under \$20,000. There was a similar amount for in-kind contributions," he said.

"In 2012-13 the company probably did, I have considered that there was probably the pass-

ing of information which has been valued at \$20,000. I certainly haven't breached the spirit of the law, although people might want to say we've breached it through technicality."

Mr Lewis said he had been advised that the definition of an associated entity as "wholly or significantly for the benefit of one or more political parties" was more lax than he had previously realised.

Foundation 51 was established in 2009. Mr Lewis said it did not need to lodge returns for the years prior to 2012-13 because its activities in those years were modestly different.

Mr Lewis was until recently the CLP's treasurer and chairman of the NT Land Development Corporation, a crucial agency for developers, while also a director of Foundation 51. "In retrospect ... I would probably have to answer that there was a conflict of interest," he said.

He said Foundation 51 conducted polling and research on behalf of business, some of which was shared with the CLP. It also undertook lobbying.

Mr Lewis categorically denied that Foundation 51 had ever funded any election campaigns directly, paid for production of any election-related materials or taken instructions from the CLP, and his own comments, made in a leaked email, that former chief minister Terry Mills was a de facto director were an "overstatement".

The CLP last week used its numbers to crush a planned inquiry into the past 20 years of political donations.

THE AUSTRALIAN, WEDNESDAY, OCTOBER 29, 2014
theaustralian.com.au

THE NATION 5



Electoral Commissioner

Our Ref: 09/1082-3

Mr Kent Rowe
Secretary
Australian Labor Party (Northern Territory) Branch
GPO Box 2026
DARWIN NT 0801

Dear Mr Rowe

I refer to the complaint which you made on 12 May 2014 regarding Foundation 51's potential non-compliance with Part XX of the *Commonwealth Electoral Act 1918* (the Act) by failing to lodge annual returns.

Between October 2014 and June 2015, Mr Graeme Lewis, Director, Foundation 51, furnished annual financial disclosure returns for Foundation 51 as an associated entity for the 2011-12, 2012-13 and 2013-14 financial years.

The AEC has exercised its powers to investigate whether Mr Lewis complied with Part XX in lodging these returns.

The AEC has now completed its investigations into Foundation 51 and has identified only one issue of non-compliance, this being for late lodgement for the 2011-12 and the 2012-13 returns. Having considered all of the relevant issues the AEC is of the view that given that the legislative objective of Part XX of the Act, disclosure has been achieved. The AEC will not take any further action regarding Mr Lewis's non-compliance in respect of late lodgement.

The AEC has however, advised Mr Lewis that it regards non-compliance as a serious issue and that it expects that future disclosure returns will comply with the Act in all respects including timeliness.

Yours sincerely .

Tom Rogers

5 August 2015

THE SATURDAY PAPER

NEWS
FEB 14, 2015

Donation disclosure reveals murky deal for Country Liberals

A Darwin private school's indirect donation to the CLP, raises questions about disclosure laws, and the involvement of consultants Crosby Textor.



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Helen Spiers has a good story to tell. Particularly this week, as Australia contemplates the woeful Closing the Gap report on Indigenous disadvantage.

The school of which Dr Spiers is principal, Darwin's Kormilda College, is a low-fee private school run by the Anglican and Uniting churches. In addition to its day students, it educates about 200 boarders drawn from remote Indigenous communities.

They come in year 8, usually with very limited literacy and numeracy. Over the past two years, 49 have graduated.

“They get the Northern Territory certificate of education and they get entrance into university,” says Spiers. “This is a great school. It does a lot of good things.”

Sadly, that is not the story anyone has lately been interested in hearing.

Instead, the focus of parents, the media and electoral authorities has been on another matter entirely: how a respectable school came to pay tens of thousands of dollars to a shadowy associated entity of the Northern Territory’s scandal-plagued and dysfunctional Country Liberal Party government, called Foundation 51.

And the truth is Helen Spiers doesn’t really know the answer. Nor does the school’s board. Those who do know aren’t telling.

Crosby Textor and Foundation 51

This intrigue goes back to August 2012, when Kormilda College determined the need for action to boost flagging enrolments. At that time it took students from years 6 to 12. The college board came to the view that it might help if they set up a feeder primary school. It was decided they should commission some market research and then-principal David Shinkfield was left to organise it.

Eleven months later, in July 2013, the consultancy report duly arrived, recommending the school should go ahead with its planned expansion.

Stamped all over the report was the name of the firm that carried out the work. It was Crosby Textor, probably Australia’s best-known research outfit, by virtue of its long association with conservative political campaigns in Australia, Britain, New Zealand and elsewhere, as well as its work for controversial clients such as tobacco companies.

Spiers says “it was a very comprehensive report”, and the board decided to go ahead with its expansion plan. Most of this work was overseen by Spiers, who became principal after Shinkfield left in March 2013. “We opened the week before last,” she says.

The accomplishment of getting the primary school operational, however, was overshadowed by an unexpected development.

The Australian Electoral Commission released electoral donation returns for the 2013-14 financial year, and among them was a document called an “associated entity disclosure return”, dated October 13 last year and signed by Graeme Lewis as director of Foundation 51.

The AEC defines an associated entity as an organisation that operates wholly or significantly for the benefit of a political party, in this case the CLP.

The disclosure Lewis signed attested that during that year Kormilda College had paid \$33,000 to his foundation.

Apart from that, Lewis's AEC disclosure revealed little. The commission provides those making declarations two choices: they can declare the income as "donation" or "other". Lewis marked it "other".

At the school there was initial confusion. As far as the principal and the school board knew, they had never given a cent to Foundation 51.

It didn't take long for them to work out what had happened. Foundation 51, rather than Crosby Textor, had invoiced the school for the consultancy report.

On Tuesday last week, a day after the calls started, the chair of the college board, Peter Jones, put up a statement on the school's website. It says, in part: "The payment refers to a consultancy into the establishment of a primary school at Kormilda. The consultancy was undertaken by Crosby Textor, a research, strategies and results company based in Sydney. The board was never aware that Foundation 51 had any involvement in this process."

The money trail

But that did not resolve the central mystery. Why had one company been paid for what the school understood to be the work of another?

A week later principal Spiers is still none the wiser.

"I have been back into the archives, checked all the emails, board minutes, finance committee minutes, and I can find nothing at all that mentions Foundation 51," she says. "The only link with Foundation 51 is that invoice."

When we contacted the foundation's Graeme Lewis, he was not very enlightening.

He maintains that the former principal, Shinkfield, had come to him via a mutual contact to offer the consultancy. Asked to be more specific about how the arrangement was formalised, he says that "this is a small town".

Lewis says he subcontracted some of the work to Crosby Textor and that Foundation 51 paid Crosby Textor for its work. How much was paid, he does not recall. Quizzed on what Foundation 51 actually did for the school, other than forward an invoice, Lewis was similarly vague.

“There would have been a report of some sort. I can’t recall. I’m 73 years old and pretty stupid,” he says. “The connotation that it was a political donation is absolute garbage. It was never a political donation. It was a consultancy receipt.”

Foundation 51 has similarly subcontracted other commissions to Crosby Textor, he says. His personal relationship with the firm’s co-founder, Mark Textor, goes back a long way.

“Mark Textor was born in Darwin. I knew him when he was growing up. I knew his father when he was here as a senior policeman. I’ve known Mark for 50 years.”

Their political relationship goes back a long way, too. Lewis has been described as the eminence grise of the territory’s Country Liberal Party. An accountant by profession, he has been its president and its treasurer and worked on many of its campaigns.

Textor likewise is a long-time CLP operative as well as being perhaps Australia’s most cunning political strategist. He is widely credited with bringing to this country various polling techniques pioneered by the Republican Party in the United States, notably the use of focus groups to refine negative messages that might resonate with swing voters.

In the 1994 Territory election campaign, for example, when Textor was a member of the CLP campaign committee, voters were contacted by phone and asked whether they could support a Labor candidate if they knew Labor planned to close the seas to non-Aboriginals and have two laws, one for blacks and one for whites.

This is widely considered to have been the first use by any political party in this country of so-called push-polling, a technique by which damaging, false allegations about an opponent are spread under the guise of seeking to measure public opinion.

Accusations of a 'slush fund'

Over the years, the Northern Territory has been used as a kind of testing ground for various strategies. Which brings us back to Foundation 51.

The company was set up in early 2009 by Lewis and James Lantry, the chief of staff to the then CLP leader Terry Mills. Lewis says its purpose was strictly commercial.

“We did market research for clients, we did a range of consultancy commissions, on social issues, on lots of different issues,” he says.

Brochures distributed when the company was launched provide a somewhat different picture. Foundation 51 offered memberships: at \$5500 for a standard membership, or “platinum” membership for \$22,000. Members would benefit from access to “commercial research, reports and information gathering ... with both economic and taxation advantages”.

The research would be delivered by Mark Textor.

Foundation 51 also offered political access. Guest speakers at events included John Howard, Peter Costello and Joe Hockey, as well as lesser conservative politicians and senior business figures.

For most of its existence, the foundation had largely operated under the radar of electoral regulators, and not made any disclosures. Then it made two, in very short order. The 2013-14 return, as we noted, was signed last October. Total receipts for that year were declared as \$101,200.

Six weeks later, another return was belatedly lodged for the previous year, listing total receipts of almost \$202,000. Most came from property developers.

Why the sudden rush to lodgement? Lewis says he did it on legal advice, out of “an abundance of caution”.

And no wonder his caution is abundant. The Territory and federal electoral authorities are now investigating the foundation, following the leaking of emails detailing the closeness of the relationship between it and the government, as well as various allegations of impropriety by disaffected former CLP members and a complaint by Territory Labor that it served as a “slush fund” for the CLP.

Space prohibits detailing them all. Suffice to say, as Lewis did when we spoke to him: “The brand of Foundation 51 has now been totally trashed.”

The company has been wound up.

Ongoing investigations

Lewis maintains the foundation was never an associated entity in the strict sense, because money paid into it was not passed on to the CLP.

“The only time that money ever went from Foundation 51 to the CLP was in 2014 when – by the time this had all blown up – I thought, what the hell, and I gave something like \$7000 to the CLP.”

But cash is not the only currency in politics. So is information and research.

“My problem was that, as director of Foundation 51, I was coming into information ... that then in my spare time I went and helped Terry Mills set up his electoral campaign.

“And then the electoral commissioner said, ‘You must have been helping the CLP – that makes you an associated entity.’”

Lewis's admissions suggest the following picture. Conservative donors pay into Foundation 51. The foundation commissions research. The research, conducted by Liberal Party pollster Crosby Textor, as well as other research companies, then gets passed to the CLP.

As for how Kormilda College and the \$33,000 fit into the picture, we can't be sure. Maybe the electoral commission investigations will find out, but don't bet on it. The response of the Northern Territory electoral authorities to questions from *The Saturday Paper* suggests they are not following that money trail. The response from the federal electoral authorities suggests only that the investigation is ongoing.

Crosby Textor did not respond to a request for clarification.

The best we can say is that the school appears to have become collateral damage in the long war between Australia's conservative parties and funding disclosure laws.

Not that Graeme Lewis cares too much about that. If the school doesn't know whom it engaged as a consultant, he says, "Well, I'm not responsible for that."

TAGS:

CLP Kormilda College Foundation 51 Crosby Textor Helen Spiers David Shinkfield Graeme Lewis Mark Textor

This article was first published in the print edition of The Saturday Paper on Feb 14, 2015 as "Crosby, bills and stats". [Subscribe here](#).



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is *The Saturday Paper's* national correspondent.



Foundation 51: Darwin school paid company at centre of NT political donations probe \$33,000

By James Oaten and the National Reporting Team's Kate Wild

Updated Mon 2 Feb 2015, 7:18pm

Darwin private high school Kormilda College paid the Foundation 51 company at the centre of a Northern Territory political donations probe \$33,000 last year, Australian Electoral Commission documents show.

The school, however, said it had no idea it had spent any money with Foundation 51, which is being investigated by the AEC for links with the ruling Country Liberals party.

The donation was included in the AEC's release of documents showing all monies spent with political groups and parties in the past financial year.

For the second consecutive year, Foundation 51 has filed an Associated Entity Disclosure Form, which means it has functioned "wholly" or "significantly" for the benefit of the Country Liberals, according to the AEC.

That form shows Kormilda College spent \$33,000 with Foundation 51.

The school's chairman Peter Jones said this was news to him.

"The board commissioned some research, the company commissioned to do that was Crosby Textor, who did the work," Mr Jones said.

"I was not aware of any links between Foundation 51 and Crosby Textor.

"In the conversation of the board, there has never been mention of Foundation 51."

The research was commissioned to help Kormilda College consider opening a primary school.

Foundation 51 director Graeme Lewis said the college's former principal approached him to undertake the research and that the school paid the Foundation 51 invoice.

"I commissioned [Crosby Textor] to do the work, part of the work," Mr Lewis said.

"I told [Kormilda College] what we would be doing, how we would be doing it."

The Labor Party has used Parliament to call Foundation 51 a CLP "slush fund", a claim Mr Lewis and the CLP has repeatedly denied.

"It's important when you're talking about declarations and returns that we need to make sure the laws are being looked after and respected," Labor secretary Kent Rowe said.

"We feel with Foundation 51 those lines have been blurred."

The AEC and Northern Territory Electoral Council (NTEC) are investigating Foundation 51.

Peter Maley gave \$50k to Country Liberals while magistrate

The AEC's release of documents also revealed former Magistrate Peter Maley was the equal largest donor to the Country Liberals, giving \$50,000 when he was a sitting magistrate.

Mr Maley resigned in August 2014, less than 12 months in the job, after months of criticism from Labor and the legal profession that a magistrate should not be associated with a political party.



PHOTO: The chairman of Kormilda College says he had no idea it spent any money with Foundation 51 last year. (ABC News)

MAP: Darwin 0800



But he said on Monday he had done nothing wrong, pointing out there were no rules affecting whether sitting magistrates can donate to political parties.

"If you're a Territorian, you're entitled to participate in the political process," he said.

"I make no apology for donating to the CLP and will so in the future."

The Country Liberals raised \$1.3 million, whereas the opposition Labor Party raised \$384,993 in the 2013/14 financial year, the documents revealed.

Under AEC rules, all donations above \$12,400 must be identified.

Less than 20 per cent of Labor's total donations are visible, but NT Labor party secretary Mr Rowe said the party's record would become clearer when the NTEC disclosed returns next month.

"Under the AEC return it's \$12,000, under the NTEC returns we do returns of \$1,500," Mr Rowe said.

"We like to take money off a wide range of donors and people like that, and especially more recently, we're having more people contributing small amounts of money to us."

If you're a Territorian, you're entitled to participate in the political process. I make no apology for donating to the CLP and will so in the future.

Peter Maley, former magistrate

More on Foundation 51:

- Property developers big contributors to Foundation 51, documents show
- 'Donations open my door' says Tollner
- Three alternative systems of political donations in the NT
- NT Parliament axes political donations inquiry
- Email suggests NT company spent \$200k on CLP election campaign
- NT may hold inquiry into 20 years of political donations
- Former NT chief minister 'held director role in Foundation 51'

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