

Dissenting report – The Hon Bronwyn
Bishop MP, The Hon Alex Somlyay MP,
Senator Scott Ryan and Senator Simon
Birmingham

Inquiry into the Review of the AEC report on the HSU

Joint Standing Committee on Electoral Matters

***How Craig Thomson dodged the rules
with the help of the AEC***

Dissenting Report

The Hon. Bronwyn Bishop MP

The Hon. Alex Somlyay MP

Senator Scott Ryan

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September 2012

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Executive Summary

s)305A of the Commonwealth Electoral Act 1918 requires a donor who made gift(s) to candidate(s) and/or political party(ies) made in relation to an election within the disclosure period, which in Mr Thomson's case was between 13th April 2007 (date of his endorsement as a candidate) and 24th November 2007 (Election Day) to file a Donor Annual Return, setting out the total amount or value of gift(s). The monetary threshold for disclosure is for 2006/7 \$10,300 and for 2007/8 \$10,500.

s)305(B) relieves associated entities and candidates from filing a Donor Return as they report gifts in Associated Entity Returns or Return or Candidate/ Agent Return respectively.

In the case of Mr Thomson a total sum of \$21,901.77 was identified by Slater & Gordon/BDO Kendall forensic accountants as gifted from HSU to him within the relevant disclosure period. This was not reported in either of the above returns. In the case of the HSU the AEC appears to believe the HSU National Office was not an associated entity and said it was sufficient just to have these gifts included in a political expenditure return, which a year late, was filed in 2009. The Candidate/Agent did not disclose any gifts and filed a nil return.

This however is not correct. If the HSU National Office is not an associated entity it is not relieved of its obligation to file a donor return. No Donor Return in respect of Mr Thomson was filed. This was not done despite Slater & Gordon's advice to the HSU to do so. The money concerned was not gifted to the ALP as a political party but to the candidate himself and as such must be disclosed by him in his/agent return. This was not done. \$12,511.40 was disclosed in a Donor Return – again late 13th October 2009, filed by National Secretary Kathy Jackson on behalf of the HSU.

In the words of Slater & Gordon, page 31 paragraph 114 of its report (forwarded to FWA but not obtained by the AEC at the time of writing their analysis)

“Invoices which were addressed to Thomson personally or in his capacity as a candidate for election would seem most likely to have been Campaign Expenditure. The Expenditure incurred by the NSW branch of the ALP which was later reimbursed by the Union would also certainly have been campaign Expenditure. Doing the best we can, expenditure of this nature has been marked with and (*) in attachment 7.

Slater & Gordon further state

“on available information Slater & Gordon regard the items marked “*” in the schedule as gifts or donations within the meaning of ss305A and/or 305B of the Commonwealth Electoral Act.”

Expenditure identified by forensic accountants BDO Kendall are at p)133 of attachment 7 - Schedule of Electoral Expenditure, - Expenditure by Electronic Transfer from SGE Credit Union Account. Within the reporting period totalled \$27,651.93. This account belonged to Mr Thomson and the details are set out below.

Expenditure by Electronic Transfer from SGE Credit Union Account

Date Paid	Payee	Amount
		\$
12/07/2007	DP Parish	671.88
12/07/2007	Australia Post – Long Jetty *	7,253.17
12/08/2007	DP Parish	79.28
22/08/2007	Dad's in Education - Wyoming	2,500.00
23/08/2007	Dad's in Education - Wyoming	2,500.00
12/11/2007	Central Coast Radio Centre *	2,895.20
12/11/2007	Central Coast Radio Centre *	4,493.50
12/11/2007	Central Coast Radio Centre *	1,540.00
12/11/2007	Central Coast Radio Centre *	1,996.50
12/11/2007	Central Coast Radio Centre *	3,722.40
03/12/2007	Dad's in Education	5,000.00
06/03/2007	Central Coast Rugby League	15,000.00
07/03/2007	Central Coast Rugby League	19,320.00
30/06/2008	Central Coast Rugby League	39,073.32
18/02/2008	ALP - NSW Branch *	12,511.40
		<u>118,556.65</u>

In addition in the relevant reporting period Mr Thomson withdrew \$13,700 in cash (in \$500 every 3 to 4 days) which is consistent with his practice since 2002 (the date of his becoming National Secretary). Total withdrawals are shown by BDO Kendall, as a schedule of ATM Cash Withdrawal Transactions CBA MasterCard Mr Craig Thomson, to total \$101,000. The relevant pages of Schedule of ATM Cash Withdrawal Transaction is attached as Annexure A.

The tax treatment of Mr Thomson's credit card use including cash withdrawals should also be investigated both from income tax and Fringe Benefits Tax as well as misappropriation, fraud or theft.

Evidence from Mr Williamson, President of the HSU stated that first he knew of these cash withdrawals was when he saw the BDO Kendall Report.

None of the expenditure or withdrawals during the relevant reporting period were authorised by the National Council or National Executive of the HSU in accordance with its rules. Dick & Smith Chartered Accountants and Auditors for the HSU in an advice to Kathy Jackson National Secretary set out the rules on 12th May 2008 and how they were flaunted.

Response

All expenditure between 1 July 2007 and January 2008 was not authorised by National Council or National Executive. In addition, expenditure by Mr Thomson personally after 14 December 2007 is detailed in the response to question 5 below.

It is ultimately a question of law as to whether the rules require authorisation of expenditure by National Council or National Executive.

Rule 21 states:

The National Council shall, subject to these Rules and the control by the members as hereinafter mentioned, be the supreme governing body of the Union and have the management and control of the affairs of the Union and, without limiting the generality of the foregoing, shall in particular have power:-

- (e) to appoint and remove such National Industrial Officers and Research Officers and other types or category of officials as it deems necessary and to fix the remuneration and terms and conditions of employment of the same;*

Rule 27(a) states:

The National Executive shall, subject to these Rules and to the decisions of National Council and to the control of members as hereinafter mentioned, have power (in addition to powers conferred on it elsewhere in these Rules) to conduct and manage the affairs of the Union including the power to set the wages and conditions of the National Office Staff and between meetings of the National Council may exercise all the powers of National Council except the power to grant life membership and the power to make, add to, amend, rescind and/or otherwise alter these Rules.

Rule 32 relevantly states:

The National Secretary shall -

- (n) Between meetings of the National Executive, control and conduct the business of the Union;*

Rule 36(b) states:

The funds and property of the Union shall be controlled by the National Council and the National Executive both of which shall have power to expend the funds of the Union for the purposes of carrying out the objects of the Union and all cheques drawn on the funds of the Union shall be signed by two officers of the Union and at least one Trustee. For the expenditure of the funds of the Union on the general administration of the Union and for purposes reasonably incidental to the general administration of the Union, the prior authority of the National Council or the National Executive shall not be necessary before cheques are signed or accounts paid.

Prior to the relevant reporting period Mr Thomson engaged Miss Chrislee Stevens and Mr Matthew Burke without any authorisation by the National Council or National Executive as required by the Union rules.

The Dick & Smith advice identifies another \$10,000 to Dad's in Education with two \$5000 payments on 17th July 2007 and 18th October 2007.

Prior to the relevant reporting time Mr Thomson had employed Ms Chrislee Stevens and Mr Matthew Burke without the authority of the National Council or National Executive. Dr Rosemary Kelly, a member of the HSU Finance Committee testified to the FWA investigation that

"I didn't know that they were employed by the national office until after Craig Thomson had left. I was not aware of their employment, it never went to national executive, it didn't go to finance committee, and I questioned the amount in the salaries, under the salaries line, because it seemed to me the salaries were too high. I did a back of the envelope on what I thought everybody was being paid and I thought, "That's funny, has the national secretary got a salary increase, or what's happening with the salaries budget?" So I actually questioned that, I didn't know these two people were employed until afterwards."¹

In the relevant reporting time Miss Stevens worked for Mr Thomson as the endorsed candidate and the value of her salary package in that period was \$32,000. Slater and Gordon at page 49 of their report, in paragraph 30 state

"The ACTU Circular recommended that YR@W activities, whilst political expenditure would not be characterised as a gift or donation to a political party or candidate. We again concur. This is of course to be contrasted with:

- (a) Expenditure directly contributed to an electoral campaign or to a political party; and
- (b) Union staff working directly (during working hours) on the campaign of a particular candidate for election or political party.

Both would be gifts warranting disclosure under s305A and/or 305B.

Mr Burke left the employment of the HSU prior to Mr Thomsons's endorsement and went to work for the Dobell electorate "duty Senator", Senator Hutchins. Mr Burke kept his HSU credit card and made purchases which could be gifts to Mr Thomson's campaign as a candidate. His services were made available to Mr Thomson by Senator Hutchins. This in itself is not permitted but is still constituted a gift

As previously outlined none of this expenditure was authorised by the HSU so the question must be asked who was the donor? If Mr Thomson was the donor of gifts he improperly gained from the HSU, s)305B of the Commonwealth Electoral Act relieves the candidate of filing a disclosure of gifts return but requiring gifts to be

¹ Transcript of proceedings, Fair Work (Registered Organisations) Act 2009, 11.00AM, THURSDAY, 15 APRIL 2010

included in his candidate/agent return. Mr Thomson though his agent filed a nil return disclosing no gifts.

This money, which was in light of the myriad of evidence in the total FWA report was either misappropriated or fraudulently acquired, means it remained unreported to the AEC and the whole schema of the reporting and disclosure obligations is avoided..

The AEC did not address any of these issues even though the Minister asked the AEC to report on “any issues concerning the operation of the Electoral Act which could be considered for possible remedy.”

The AEC analysis which only queried \$17,014.88 of other expenditure completely overlooked all of the above.

The current Funding and Disclosure Guide published by the AEC for election donors points out the distinction between third parties required to file a third party return of political expenditure and a donor. Page 6 of the guidelines provides that the monetary threshold for disclosure applies to the total value of all gifts or donations, meaning “all donations, regardless of their value must be disclosed”.

The AEC guidelines may also capture additional electronic transfers from the SGE Credit Union made during the reporting period (and disclosed in the BDO Kendall Report) to Dad’s in Education, Central Coast Rugby League totalling a further \$49,067.32.

The Guidelines state donations made indirectly to a candidate (during the disclosure period) must be disclosed. It is certainly able to be argued that the donations to these entities in the disclosure period were meant to benefit Mr Thomson as the Candidate.

Thus gift in excess of \$100,000 to Mr Thomson either direct or indirect in accordance with the BDO Kendall Report and the AEC Guidelines should have been disclosed. But by whom?

A Third Party expenditure disclosure does not relieve a person of the obligation to make a donor return unless that person is an associated entity or candidate.

Up to May 2009 the AEC could have used its statutory powers to do a Compliance Review pursuant to s)316 (2R) of the HSU National Office believing it to be an associated entity.

Indeed it is important to note that the AEC did no compliance reviews of Trade Unions with the exception of one of the HSU in late November 2011 when they were embarrassed into it with the HSU supplying 3 returns (all late for 2010) going

from a miniscule political expenditure return to one showing \$24 million dollars of expenditure. This in itself shows the AEC knew they had the power to conduct Compliance Reviews on Trade Unions but simply elected not to do so and elected to ignore the 2006 amendments to The Electoral Act adding Trade Unions to the group to be supply returns and be subject to compliance review.

The list of the 256 Compliance Reviews carried out from 2007 to 2012 are attached as Annexure B

The AEC was further derelict in its duty to carry out its responsibilities under the Act by its failure to carry out any investigation of HSU and its National Office despite knowledge in the press concerning payments made to and/or on behalf of Mr Thomson within the reporting period.

Annexure C is the correspondence received by the committee relating to the filing of returns between the AEC and the HSU National Office and Mr Ken Fowlie of Slater & Gordon demonstrating failure on behalf of the AEC to act in a timely way. It is interesting to note that in his email to Ms Jackson, Mr Pirani, the Chief Legal Officer of the AEC only becomes insistent when he flags that he will be questioned at Senate Estimates and his salutation to Miss Jackson the then National Secretary becomes Kathy rather than the previous Ms Jackson (Annexure D). The AEC's failure to act means no action can now be taken because 3 year limitation period has elapsed.

Table of Comparisons between positions of AEC, Labor/Greens and the Coalition

AEC "measure"	Committee recommendation Labor/Green	Coalition position
1. Reconsideration of the appropriate level of disclosure threshold	Recommendation 1 The Committee recommends that the disclosure threshold be lowered to \$1,000 and that the CPI indexation be removed.	Coalition opposes It should be noted that no evidence was taken on the disclosure threshold issue and therefore cannot be relevant to this inquiry or its recommendations. The Coalition members of JSCEM do not agree with the reduction in the disclosure threshold, noting that it strongly increases compliance costs for political parties, third parties and individuals and will lead to potential intimidation of small donors. Evidence exists that prior to

		<p>the lifting of the threshold intimidation did in fact occur. Donors to non-Labor parties were harassed and intimidated by union bosses and Labor Party heavies.</p> <p>Coalition members of the committee also note that this recommendation, allegedly based on the transparency desired by the Government majority of the Committee does nothing to deal with two issues that are specifically relevant to this inquiry.</p> <p>Evidence was received about the use of credit cards by Mr Thomson, including for substantial cash withdrawals. Coalition members of the Committee highlighted the threat posed by the use of credit cards in the Dissenting Report into the 2011 inquiry².</p> <p>There are no records of what this money was used for. Even if only part of the more than \$100,000 was utilised for Mr Thomson's campaign, this would represent a substantially greater threat to transparency than a donation of little more than \$1000. The refusal of the ALP or Greens to address this gaping loophole brings into question the claimed commitment to transparency as opposed to a disclosure regime that provides a political advantage.</p>
<p>2. Introduce administrative penalties for objective failures (such as failing to lodge on time)</p>	<p>Recommendation 2</p> <p>The Committee recommends that the Commonwealth Electoral Act 1918 be amended, as necessary, to make offences classified as 'straightforward matters of fact' subject to administrative penalties issued by the Australian Electoral</p>	<p>Coalition is opposes</p> <p>This recommendation, which seeks to grant more power to the Australian Electoral Commission. The Coalition remains steadfast in its belief that the Australian Electoral</p>

² p 222

	<p>Commission. The issuance of an administrative penalty should be accompanied by a mechanism for internal review.</p>	<p>Commission should not be granted additional powers until such time as they can demonstrate they are prepared to use the powers already given to them.</p> <p>Furthermore, Coalition members believe that 'straightforward matters of fact' is too broad. Before Coalition members support the institution of administrative penalties, the specific list of offences for their application needs to be considered, as well as appropriate penalties and the threshold for consideration of more serious charges.</p>
<p>5. Abolish 'associated entities' and establish a third party scheme similar to Canada and the UK</p>	<p>Recommendation 3</p> <p>The committee recommends that the <i>Commonwealth Electoral Act 1918</i> be amended to improve the clarity of the definition of 'Associated Entity'. Changes could include:</p> <p>Defining 'controlled' as used in section 287(1)(a) to include the right of a party to appoint a majority of directors, trustees or office bearers;</p> <p>Defining 'to a significant extent' as used in section 287(1)(b) to include the receipt of a political party of more than 50 per cent of the distributed funds, entitlements or benefits enjoyed and/or services provided by the associated entity in a financial year; and</p> <p>Defining 'benefit' as used in section 287(1)(b) to include the receipt of favourable, non-commercial arrangements where the party or its members ultimately receives the benefit. (paragraph 3.104)</p>	<p>Coalition opposes</p> <p>This recommendation whilst opposing the AEC measure to abolish associated entities does not include provisions to ensure that all Trade unions together with each branch of each union and each national office are clearly defined as an associated entity. This issue was highlighted in evidence given.</p> <p>Evidence given showed the AEC believed the national office of the HSU was an associated entity until 27th May 2009, when it accepted a simple denial that it was from the ALP Assistant National Secretary reversing his advice of the 10th March 2009 that the HSU National office was an associated entity.</p> <p>This is yet another example where the AEC did not use its available powers; does not act in a timely way and simply wants to abolish the provision to give itself less work.</p> <p>An amendment in the above terms is required.</p>

		<p>The Labor/Green suggested amendments which does nothing to change the current legislation which creates an incentive for political support to be directed through national offices whereby such support is not disclosed under the associated entity regime. This should be addressed as a matter of urgency so that all constituent bodies of a trade union affiliated to a political party are covered by the associated entity disclosure regime.</p>
<p>7.</p> <p>Require the electronic lodgement of all returns to the AEC (with power for the Electoral Commissioner to grant some exceptions)</p>	<p>Recommendation 4</p> <p>The committee recommends that the <i>Commonwealth Electoral Act 1918</i> be amended to require the electronic lodgement of returns with the Australian Electoral Commission. The Electoral Commissioner should be able to grant exemptions to this requirement in limited circumstances.</p>	<p>Coalition opposes</p> <p>The Coalition believes this should only apply to political parties and associated entities, which would include all branches of Trade Unions as defined under the Registered Organisations Act.</p>
<p>8.</p> <p>Require the period of retention of records in sections 317 and related offence in section 315 (2)(b) be increased to seven years</p>	<p>Recommendation 5</p> <p>The committee recommends that the <i>Commonwealth Electoral Act 1918</i> be amended to increase the period for the retention of records in section 317 and related offence in section 315(2)(b) to seven years.</p>	<p>Coalition opposes</p> <p>This recommendation is opposed by the Coalition as it would be out of kilter with the three year prosecution period and the electoral cycle.</p> <p>In particular, Coalition members restate their previous concern about the burden upon the many thousands of volunteers who engage in the political process, often absent of professional support that would facilitate the maintenance of records for such an extended period of time.</p>

<p>9.</p> <p>Insert a new offence for a person who fails to make records to enable complete and accurate disclosure</p>	<p>Recommendation 6</p> <p>The committee recommends that the <i>Commonwealth Electoral Act 1918</i> be amended to insert an offence for a person who fails to make records to enable complete and accurate disclosure.</p>	<p>Coalition supports</p> <p>The Coalition agrees with this recommendation as it would have covered Mr Thomson's period as National Secretary of the HSU and his failure to keep records as evidenced by the BDO Kendall and Slater and Gordon Reports.</p>
<p>10.</p> <p>Increase relevant criminal penalties that are fraud related (eg. Knowingly providing false and misleading information in a return)</p>	<p>Recommendation 7</p> <p>The committee recommends that the penalties in relation to offences that are classified as more 'serious' should be strengthened along the lines proposed in the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2010. Fraud related offences should be treated as serious offences for the purposes of the <i>Commonwealth Electoral Act 1918</i>.</p>	<p>Coalition opposes</p> <p>There has been no definition of the term 'more serious'</p>
<p>11.</p> <p>Require more frequent reporting of relevant expenditure and receipts</p>	<p>Recommendation 8</p> <p>The committee recommends that the Australian Government introduce a six-monthly disclosure reporting timeframe, as outlined in the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2010.</p>	<p>Coalition opposes</p> <p>The Opposition is opposed to this recommendation, which would provide a significant regulatory burden on political parties and associated entities.</p> <p>Furthermore, no evidence was adduced in this inquiry</p>
<p>13.</p> <p>Review the 'disclosure period' and 'election period' in relation to disclosure obligations and new candidates who are seeking pre-selection</p>	<p>Recommendation 9</p> <p>The committee recommends that the <i>Commonwealth Electoral Act 1918</i> be amended to extend the disclosure period for new candidates to 12 months prior to pre-selection or nomination, whichever is earlier.</p>	<p>Coalition opposes</p> <p>Unnecessary regulatory burden.</p> <p>The requirement to extend the disclosure period for candidates to 12 months prior to preselection or nomination would impose a massive compliance cost on individuals as well as political parties.</p> <p>Even more concerning, it could act as a disincentive for people to decide to nominate or participate in</p>

		<p>the political process.</p> <p>This recommendation fails to acknowledge or understand that many people would not be in a position to comply with such a requirement, despite their best efforts in all good faith.</p> <p>Occasionally, a by-election is warranted by virtue of the sudden resignation or death of a member of the house. A candidate who was not expecting to nominate for office may then simply not be able to comply with this requirement as, despite them having been politically involved, they may not have expected to nominate and therefore may not have maintained the necessary records.</p> <p>If this requirement was to serve as a disincentive for someone to nominate it would be an indictment of our electoral administration that we allowed such a provision to have this effect.</p> <p>This represents a complete over-regulation of the activities of candidates to no demonstrated good purpose.</p>
<p>14.</p> <p>Increase the coercive powers of the AEC to enable it to act as a regulator in relation to matters under Part XX of the Electoral Act</p>	<p>Recommendation 10</p> <p>The committee recommends that the Australian Government clarify, and where needed strengthen, the coercive powers of the Australian Electoral Commission to determine the extent of an individual or organisation’s disclosure obligations and to investigate whether reporting obligations under Part XX of the <i>Commonwealth Electoral Act 1918</i> have been met.</p>	<p>Coalition opposes</p> <p>The Opposition is opposed to this recommendation, The Coalition members note that there are currently sufficient powers already granted to the Australian Electoral Commission and there is no evidence that such current powers are being utilised. The Coalition in general is opposed to granting the Australian Electoral Commission additional powers, until the Commission is prepared to use the powers they currently have.</p>

<p>15.</p> <p>Expand the categories of 'electoral expenditure' that are to be disclosed to include campaign staff, premises, office equipment, vehicles and travel</p>	<p>Recommendation 11</p> <p>The committee recommends that the <i>Commonwealth Electoral Act 1918</i> be amended to expand the categories of 'electoral expenditure' as set out in section 308(1), to cover additional relevant items including campaign staff, premises, office equipment, vehicles and travel.</p>	<p>Coalition opposes</p> <p>This is unnecessary as these items are already covered.</p>
<p>16.</p> <p>Deem registered political parties to be bodies corporate for the purposes of Part XX of the Electoral Act</p>	<p>Recommendation 12</p> <p>The committee recommends that the <i>Commonwealth Electoral Act 1918</i> be amended to provide that registered political parties be deemed bodies corporate for the purposes of Part XX of the Act.</p>	<p>Coalition opposes</p> <p>No evidence was tested as to the fairness of this provision or any unintended consequences. It would penalise volunteers which is an essential part of Australian political life.</p> <p>The principle of mutuality is time honoured within Australian political life and would once again favour Labor and the unaffected unions which lie outside such a definition.</p>
<p>17.</p> <p>Introduce provisions with greater certainty about who has the relevant reporting obligation</p>	<p>Recommendation 13</p> <p>The committee recommends that the <i>Commonwealth Electoral Act 1918</i> be amended to introduce provisions with greater certainty about which position or individual has relevant reporting obligations within political parties, associated entities and third party organisations.</p>	<p>Coalition opposes</p> <p>Provisions already exist and it is the responsibility of the AEC to act upon them. This however they are ever reluctant to do.</p> <p>The AEC is always looking for someone else to do their work.</p>
<p>3.</p> <p>Provide that financial penalties be offset against public funding entitlements (perhaps combined with the AEC withholding a small percentage of such entitlements for a period of twelve months following the election.</p>	<p>Not supported</p>	<p>Not supported</p>

<p>4.</p> <p>Require the compulsory and timely auditing of all records held by registered parties (and party units), candidates, third parties etc, by independent auditors (do not include donors)</p>	<p>Not supported</p>	<p>Not supported</p>
<p>6.</p> <p>Establish the requirement that electoral expenditure can only come from specific and dedicated campaign accounts into which all donations must be deposited that have been nominated to the AEC and which can be 'trawled' by the Australian Transaction Reports and Analysis Centre (AUSTRAC)</p>	<p>Not supported</p>	<p>Not supported</p>
<p>12.</p> <p>Reintroduce requirements that campaign committee expenditure is to be reported separately from the state party unit and specifically covers the election period for each division.</p>	<p>Not supported</p>	<p>Not supported</p>

Introduction

The basis of the reference to the Committee by the Minister was fundamentally flawed as the AEC at the time of writing its analysis, did not have, nor had ever seen or had access to the Slater and Gordon BDO Kendall Report which is an intrinsic part of the FWA Report. The AEC could not have in good faith analysed the report as they did not have it all. Further, in these circumstances should not have purported to have analysed the report and still further their failure to advise the committee that they had not seen the whole report is reprehensible.

It remains unknown whether the Minister was in possession of the whole report and only gave some of it to the AEC or whether he had not himself received the whole.

The FWA Report was fundamentally a report into the actions and behaviour of Craig Thomson as National Secretary of the Health Services Union, a person seeking pre-selection from the ALP and then as a candidate for Dobell.

Coalition members of the Joint Standing Committee on Electoral Matters note once again that most of the so called measures put forward by the AEC and the Labor/Greens recommendations flowing therefrom are solely to serve the interests of the Australian Labor Party, the Greens and particularly the trade union bosses. This is particularly evident in relation to the proposed lowering of the donation disclosure threshold from \$11,900 to \$1000, which will significantly impact the ability of individuals to give donations to Coalition Parties without being exposed to intimidation and harassment.

The Coalition has grave concerns with the current system and the way in which the AEC administers the Act. It is shown to have advantaged the Labor Party by refusing to use its powers to conduct compliance audits of Trade Unions and indulge particularly the HSU National Office, by not using its powers to investigate non compliance and only strongly seek compliance when the Legal Officer writes he will get questioned in Senate Estimates. See annexures D of correspondence between Mr Pirani (AEC) and Miss Kathy Jackson.

In evidence Mr Nassios the author of the report, stated on 22nd August 2012 in answer to a question from Mrs Bronwyn Bishop concerning the relevance the Slater and Gordon BDO Kendall Report "that was the basis of the commencement of the investigation. It's detailed a number of the issues that we needed to look at"

The Coalition believes in participatory democracy and that individuals should be allowed to contribute to the political process, however, the proposed reduction in the disclosure threshold will greatly hamper the ability of individuals and firms to contribute. Neither the evidence heard by the inquiry, nor the submissions have shown there to be any cause for concern of donations under the current threshold, the problem not addressed is dealing with the failure of the AEC and dishonesty of the Thomson case.

This shows that the need for the Coalition's recommendation for a dedicated fraud unit within the AEC is very much needed. The Coalition is particularly concerned about the evidence heard during the inquiry of the circumvention of electoral laws through the use of union credit cards by Mr Thomson.

Coalition members also note the issue about election campaigns being funded by tax deductible donations given to unions and special interest groups. At present, individuals are allowed to claim a deduction of up to \$1500 for donations to political parties or individual candidates; however, trade unions spend millions on election campaigns and receive much of their funding from tax deductible membership fees, not subject to the \$1500 cap. Similarly, groups such as the Australian Conservation Foundation and Greenpeace also receive tax deductible donations, and then spend money on political campaigning, putting them at a significant advantage over political parties whose donors have limited tax deductibility. The Coalition believes this issue should be examined further.

The AEC and Craig Thomson – the real problem

The Committee took evidence from the Australian Electoral Commission on the 16th July 2012, after receiving the reference from the Special Minister of State. The Committee hearing was allowed sixty six minutes to question the Australian Electoral Commission.

The Committee only became aware that the AEC had not been given the complete FWA Report on that date. The missing Slater and Gordon BDO Kendall report is integral to the FWA Report authored by Mr Nassios holding a delegation from the General Manager of FWA to investigate the allegations made.

The HSU National Office engaged Slater and Gordon (solicitors) to investigate allegations, swirling in the media and particularly in the Sydney Morning Herald in articles written by Mark Davis showing the acquisitions and expenditure of Union funds by Craig Thomson, the Member for Dobell between the years of 2002 and 2007 being the time he was employed as the National Secretary of the HSU. This included cash withdrawals of several hundred dollars a time, every few days, totally \$101,000, \$13,700, which was during the disclosure period.

The allegations arose from material which became available as a result of Mr Thomson suing the Sydney Morning Herald for defamation relating to the claims that he had spent Union funds on prostitutes and on his campaign to win the seat of Dobell.

The court case was in fact dropped by Mr Thomson prior to it going to trial with Mr Thomson having to pay the legal costs and receiving no money from the defendant in settlement of his claim for damages despite his statements that the claim was settled implying he received compensation, which he did not.

He also failed to disclose in his pecuniary interest register that the ALP paid his legal fees of now admitted \$150,000, which he was required to do so.

Mr Thomson's constant statement that he has done nothing wrong is not borne out by the findings of the FWA Report and is resonant of his Party Leader, Julia Gillard's claims regarding her AWU related indiscretions, when a partner at Slater and Gordon, she claims to have done nothing wrong.

Ms Gillard remains dependant of the vote of Mr Thomson to retain the position of Prime Minister and the payment of his legal fees by the ALP's is significant because it prevented this debt making him bankrupt and thereby losing his seat under s44 of the Constitution.

Some of the findings in the BDO Kendall Report

BDO Kendall being a firm of forensic accountants and the accompanying report from Slater and Gordon found that Mr Thomson had done plenty that was wrong.

It also made findings as to what disclosures Mr Thomson and the HSU should have made to the AEC in relation to the 2007 election and the election of Mr Thomson to the seat of Dobell.

The Slater and Gordon, BDO Kendall Report specifically found that amounts totalling \$21,906.77 marked with an asterisk in the schedules forming part of that report. The Chair along with the ALP and Green Members of the Committee has censored part of this schedule.

The report also showed that from 2002 till his resignation, Mr Thomson without any authorisation of the National Executive of the HSU withdrew \$101,000 out in cash and as shown by the affidavit of solicitors for Fairfax allegedly spent thousands of dollars on prostitutes. Miss Stevens and Mr Burke were put on the payroll by Mr Thomson to raise his profile through work in Dobell, without authority of the National Executive. After his endorsement their services were a gift and required disclosure which was not done.

The Coalition finds that the inquiry of the Joint Standing Committee on Electoral Matters does not fulfil the request of the Minister.

The misconduct of union officials is not a new concern and the Opposition would like to use this opportunity to note that this particular investigation is on an issue that first occurred during the 2007 election campaign but the severity of the issue was only raised in 2009. Three years later the Government and the AEC are still running the same agenda to avoid proper scrutiny of the actions of the HSU National Office, the inactions of the AEC in failing to use their powers to obtain information from the HSU. In this time there has been forensic accounting investigations, subsequent investigations, media speculation and now an inadequate analysis by the AEC and credit union.

Terms of reference used by the committee

The BDO Kendall Report, commissioned by Mr Fowlie of Slater and Gordon at the behest of Mrs Kathy Jackson, was the report that triggered the investigation by FWA³. The forensic accounting report on the HSU by BDO Kendall outlines and identifies the spending of the HSU National Secretary, Mr Thomson, his staff, Chrisalee Stevens and Mr Matthew Burke, and the statements of their credit cards.

Letter from Kathy Jackson, HSU to Ken Fowlie, Slater & Gordon dated 11 December 2008

This letter, which has been censored and only partly released into the public domain by the Committee through Labor's use of its majority on the Committee to censor the letter is particularly informative as it outlines the detailed concerns of the HSU itself with the behaviour of Mr Thomson.

On page 2 of the letter, Ms Jackson specifically highlights the risk to the HSU of the undocumented and potential political expenditure by Mr Thomson and Mr Burke and Ms Stevens that is required to be disclosed. Furthermore, in her request to Mr Fowlie, Ms Jackson specifically requests advice regarding:

"f. Whether it is possible to determine the total sum of Union funds expended on Mr Thomson's campaign to win the seat of Dobell in the 2007 Federal election and if so what sum?"

g. What other expenditure in the year 2007 was properly characterised as political expenditure which the Union is obliged to declare to the AEC?"

These concerns by the HSU itself regarding its inability to determine whether information was available to comply with disclosure requirements highlight the scandal that surrounds this expenditure and undermines the conclusions arrived at by the AEC given the lack of records available.

³ Testimony of Mr Nassios

They also highlight the need for the AEC to have taken urgent and decisive action in investigating this matter. This letter in full is annexed in full as Annexure E to this dissenting report.

As minutes tabled with this report will show at the meeting held on the 22nd August 2012 the Chairman used the Government control of the Committee censor the Slater & Gordon BDO Kendal Report claiming that the information was outside of the terms of reference. The terms of reference are stated below.

The Australian Electoral Commission (AEC), in its analysis of the Fair Work Australia report into the Health Services Union National Office (FWA report), identified a number of areas for consideration to address limitations in the *Commonwealth Electoral Act 1918*.

The committee will examine the [AEC analysis](#) of the FWA report and the list of [possible measures](#) for reforming the Commonwealth Electoral Act.

The Minister's letter to the Committee made it quite clear that he wished the Committee to consider analysis of the FWA Report. On the 16th May 2012 The Special Minister of State wrote to the Joint Standing Committee on Electoral Matters. Contents of the Ministers letter is below.

As the Committee may have noted I wrote to the electoral commissioner on the 8th May 2012 seeking his advice on whether or not there had been any failures to comply with the provisions of the Commonwealth Electoral Act 1918 (Electoral Act) as disclosed by the information recently published Fair Work Australia Report into the Health Services Union National Office (FWA Report). The Commissioner has developed a detailed analysis of the FWA report and this advice is now publicly available from the Australian Electoral Commission.

At the time, I also sought advice from the Electoral Commissioner on any issues concerning the operation of the Electoral Act which could be considered for possible remedy.

I refer the Electoral Commissioners analysis and the list of matters to the Joint Standing Committee on electoral Matters for its consideration.

As the Minister had requested that the committee analyse the AEC Report which was to be an analysis of the FWA report into the HSU National Office and Mr Thomson the Coalition believes that this should include the time period in which Mr Thomson was the HSU National Secretary and the Labor Candidate for Dobell.

No proper understanding of the FWA Report can be had without reading the Slater & Gordon BDO Kendal Report.

The Coalition objects vehemently to the removal, that is censorship, of many parts of the Slater and Gordon BDO Kendall Report; the partial censoring of the Letter dated 11 December 2008 from Ms Jackson to Mr Ken Fowlie of Slater & Gordon and other annexures to the FWA Report.

The inquiry process of the committee

The Coalition members of the committee found the process of inquiry to be poorly managed by the Chairman. In particular, many documents particularly from the AEC were not provided at the outset of the inquiry, and that they were only provided when requested by the Coalition members of the committee. Further many of these documents that were late, were presented after the AEC had testified and the Chairman of the Committee has refused to have the AEC reappear before the committee a final time prior to the writing of the report to allow legitimate questioning of the AEC on matters which needed answers following receipt of additional material.

During the process of the inquiry the committee took evidence from representatives of Fair Work Australia (FWA), Ms Bernadette O’Neill, General Manager and Mr Terry Nassios, and the AEC, Mr Brad Edgman, Director, Funding and Disclosure Section—Compliance, Australian Electoral Commission, Mr Ed Killestyn, Electoral Commissioner, Australian Electoral Commission and Mr Paul Pirani, Chief Legal Officer, Australian Electoral Commission.

Throughout the collection of evidence it became quite apparent that the FWA Report cannot be analysed properly without access to the BDO Kendall’s forensic accounting report on the National Office of the Health Services Union and the Slater and Gordon advice on this report. This was provided to the committee members only after the request from Mrs Bishop during evidence given by Bernadette O’Neil, General Manager of FWA who took many questions on notice.

On the 6th July 2012 Mr Killestyn testified that that the AEC had not seen the Slater & Gordon BDO Kendal Report.

That the AEC did not request a copy of the BDO Kendall’s report, as testified to by Mr Killesyteyn at the public hearing held on the 6th July 2012. This is viewed by the Coalition as gross incompetence on behalf of the AEC as it rendered it incapable of fulfilling the request of the Minister to analyse a report, the totality of which they did not have.

In previous evidence the AEC and Mr Pirani in particular argued that they could not use coercive powers under section 316(3) of the Commonwealth Electoral Act 1918 to call for the records of the HSU National Office as Mr Pirani did not believe the AEC had reasonable grounds that there could be non-compliance. This is despite Mr Pirani threatening to use these powers.

However further evidence was adduced that showed that the AEC had done compliance reviews pursuant to s316(2A) of the Commonwealth Electoral Act 1918 from 2007 to 2011 of 256 associated entities but none were trade unions as associated entities. In fact not one compliance audit of a Trade Union was done until November 2011 when HSU East was reviewed.

Coalition members of the Committee are extremely concerned at the pattern of AEC audit activity.

At the hearing on the 22nd August, following a request by Coalition members, the Commissioner tabled a list of audits undertaken by the AEC since 2007. This list comprised 256 audit activities – but only one of these involved the AEC auditing a union, HSU East, and this only after extensive public debate and comment about activities within the HSU.

Under questioning from Coalition members, the Commissioner admitted that the AEC had not focused on the activities of trade unions despite the substantial funds they directed to certain political parties and the fact that many unions have formal voting rights within the Labor Party.

Senator RYAN: This is a list comprising four to five years of work. Given the sheer quantum of money involved in trade unions and the role they play as associated entities on one side of politics, and given that there has been a compliance issue with at least one—I do not know if there are any more—don't you think that looking at this list and seeing the Dunkley Blue Ribbon Club and the North West 200 Club, which would both contribute an order of magnitude less than some of the larger trade unions in my home state of Victoria, it looks slightly odd to people with an interest in compliance that there is not a single trade union on this list? They are the largest funders. They are larger than most corporate donors. Most of these associated entities here would contribute zeroes less than a single large trade union. Don't you think this is a flaw in the judgment you have exercised as to which associated entities you audit?

Mr Killesteyn: I think it is a fair question but, as I explained before, you have for the unions another monitoring body, Fair Work Australia—

The Commissioner defended the lack of the AEC audit activity with respect to trade unions on two grounds:

- First, that Fair Work Australia performed an oversight role of trade unions; and,
- Second, that the AEC did not have the resources to effectively perform its role with respect to trade unions and that following the changes to the associated entity regime in the 2006 amendments to the act, no additional resources were provided.

Coalition members of the committee strenuously object to both these statements. The AEC did complete 256 reviews in the period between 2007 and 2012, there is only one trade union listed, the HSU in 2011. In the four year period identified the

AEC did however complete two reviews of the Lady Wilson Foundation (2008 and 2012), two reviews of the Violet Bobbin Trust (2008 and 2010) and a review of the Blue and White Committee (2008). Mr Edgman, Director, Funding and Disclosure Section, Compliance, Australian Electoral Commission gave the reasoning for the choice of entities to assess as follows.

Senator RYAN: Given the quantum of money involved with trade unions, as opposed to the Blue and White Committee of Victoria, which I have never even heard of, is there a reason why there are no associated entity compliance audits of trade unions on that list?

Mr Edgman: The reason that you will find a lot of smaller associated entities on that list is that our approach is primarily to look at political parties rather than associated entities.

Senator RYAN: There are a lot of associated entities there, though.

Mr Edgman: What happens is that when we choose the political parties, we fold in the associated entities with those parties, for the reason that quite often with the smaller associated entities their finances are linked in with the party's. There are movements of money between them. They can have money on deposit between each other, debts with each other. We do it because, if we looked only at the party, we could not see the other flows and the debts incurred. If we have done the party and we have done the associated entities once in three years—because we work on a three-year cycle—and if we come out believing that everything seems to be fine with the associated entities, we have it within our discretion next time we do the party not to do all the associated entities again.

Fair Work Australia performs a different role for a different purpose. Its performance of this or otherwise is completely irrelevant to the role of the AEC with respect to the disclosure regime and audit activity. To use the activity of an unrelated agency as an excuse for a failure to perform duties in a manner that appears fair and balanced is simply not acceptable.

With respect to the resources available to the AEC, Coalition members are concerned that the AEC has effectively ignored the changes to the regime in the 2006 Act.

Senator RYAN: I am asking you to explain why on this list there are myriad groups, including small ones made up of volunteers, that contribute maybe in the order of tens of thousands of dollars in a good year, yet the AEC has not seen fit to undertake a compliance audit of groups that are, firstly, members of the political party that happens to be in government, that have voting rights and that donate much larger sums of money. It is not up to me to make an accusation. I think, given the weighting of this list, that it is a very legitimate question to ask why no trade union has had a compliance review undertaken. If the answer is that it is Fair Work Australia's job, then fine—give us that answer. But I don't think you will find a good portion of the parliament accepting it.

Mr Killesteyn: No. What I am suggesting is that the amendments that were made in 2006 which brought in the unions raised our workload quite considerably—threefold. So the practice that we have had in the basic approach to determining who would be subject to a compliance audit has continued

since that time. The other point I would make is that the complexity of the financial arrangements of the unions, where they are primarily reliant on member contributions, is different from the complexity of financial transactions from other organisations, where there is a greater risk in terms of being able to track—

This statement by the commissioner implies that the scale, scope and complexity of unions compared to small, voluntary associations is a deterrent to undertaking audit activity upon them. This is unacceptable in a regime that is expected to apply the rules equally to all participants.

Coalition members of the committee remain extremely concerned at the inconsistency in the application of the AEC's audit powers. The ongoing audit of small groups which raise and/or donate relatively trifling sums, especially when compared to the millions of dollars paid and spent by the union movement, and the lack of audit activity on these unions brings into question the fair and transparent application and use of these powers.

Correspondence asked for but not received until after all of the evidence had been taken showed that until May 2009 the AEC and the Australian Labor Party both believed that the HSU National Office was an associated entity within the meaning of sections 314EA section 314 AEB of the Commonwealth Electoral Act 1918 as evidenced in the email from Mr Pirayni to Ms Jackson (annexed to this report). Thus the AEC should have carried out a compliance review of the HSU National Office within this period, but from subsequent evidence it became clear it was the policy of the AEC not to do compliance reviews of Trade Unions.

In March 2009 ALP Secretariat reversed its advice that the HSU National Office was not an associated entity. In May 2009 Ms Jackson advised that the HSU was not an associated entity.

Mr Pirayni, who is the chief legal officer of the AEC, simply accepted the statement from the Australian Labor Party and then the trade union.

“Yesterday I had a discussion with Mr Michael Williamson, who confirmed that the existing third party political expenditure return that we have published only relates to the NSW branch of the HSU and does NOT include any information about the National Branch of which you are the National Secretary.

Similarly, the associated entity returns that we have publish apparently do not include the National Branch of your union

No doubt I will be questioned at Senate estimates Hearings next Thursday 28 May on this matter and would appreciate the opportunity to discuss this matter with you on a without prejudice basis. I just want to be clear about what pro-active action you are taking to address this matter (including the proposed timeframe) and to meet the statutory reporting obligations contained in Part XX of the Act.”

From having seen this email the opposition notes that the AEC in these circumstances would have been able to use their powers to ascertain the information that was required and did not. The associated entity report was due in October 2008.

Failure of the AEC to assess the BDO Kendall Report

The AEC was directed by the SMOS to assess the Fair Work Australia investigation in to the HSU. The opposition notes that this document was not provided in full when it was tabled in the Senate by Ms Bernadette O'Neill.

A glaring omission by the AEC in their report to the Minister is the lack of any mention to the Slater & Gordon BDO Kendall Report. As already stated the BDO Kendall Report was the report that triggered the FWA investigation. In being such an influential piece of evidence the information from the report was an inadmissible feature of the report.

The Coalition wish to have it noted that the role of this committee, as denoted by the Special Minister of State, is to is to assess the analysis of the AEC of the FWA report and their so called "measures". The opposition members of the committee find that the AEC failed dismally to properly assess the report.

In doing so the Opposition notes that the AEC in fact could not even do this properly. The accounting firm BDO Kendall's mentioned 48 times on 30 different pages of the tabled report, of which 27 times relates directly to the Report itself. That the AEC could fail to acknowledge the existence of such an important document is incomprehensible to the opposition members of the committee.

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Mrs BRONWYN BISHOP: The problem is this: the Electoral Commission has looked at this report – by the way, did you look at the BDO Kendalls report?

Mr Killesteyn: We still have not had that made available to us.

In the public hearing held on 22nd August Mr Nassios that the BDO Kendall's report was the single most important piece of information and that it was the completion of that document that triggered the Fair Work Australia investigation into the HSU National Office.

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Mrs BRONWYN BISHOP: Did you place a lot of reliance on that report?

Mr Nassios: As I think I answered last time, certainly that was the basis of the commencement of the investigation. It detailed a number of the issues that we needed to look into.

Mrs BRONWYN BISHOP: The AEC has given evidence that the report they were given did not contain the Slater & Gordon and BDO Kendalls reports. So the AEC's analysis – not, as Mr Thomson referred to it in his speech in the parliament, an investigation; the AEC deliberately said it was not an investigation; they said it was an analysis – did not have access to that highly important report on which you based your report. Did that surprise you? Would that surprise you?

Mr Nassios: As I said to you before, I cannot answer where that report has gone. As I say, unfortunately – or fortunately, from my perspective – two days after I completed the report I proceeded on leave. So I do not know.

Mrs BRONWYN BISHOP: But the Slater & Gordon and BDO Kendalls reports are fundamentally important to your view?

Mr Nassios: They were certainly important. As I have explained, they were the catalyst, so to speak, of a number of the issues – not all of the issues but certainly a number of the issues, yes.

The AEC does not have the BDO Kendall report, nor has it been published in full. There is information that requires scrutiny of the period.

The Coalition members of the committee draws attention to the letter from Mr Fowlie to Mr Nassios on 16 June 2009.

I have also been instructed to provide a copy of a resolution passed by the Executive, yesterday, which was in the following terms:

National Executive:

Directs Slater & Gordon to provide a copy of the Findings to the Industrial Registrar and a copy of relevant findings of the Investigation to the Australian Electoral Commission ("AEC") as soon as practicable under cover of a letter providing a copy of this resolution and indicating to both that the Union is prepared to co-operate with whatever further investigation and inquiries those entities wish to make into the matters the subject of the Investigation.

Slater and Gordon did not provide the relevant findings to the AEC as they concluded not to do so until after the FWA investigation was concluded.

Conclusion

The Coalition members of the Committee reject in total the Report put forth by the Labor and Greens members of the Committee as it merely compounds the falsehood that the AEC conducted a paper an analysis of the FWA Report. The AEC was at all relevant times unable to analyse the said Report as they did not have access to the annexures to the report which are integral to the FWA Report, particularly the Slater & Gordon/ BDO Kendal Report and also the interim report

of the FWA delegate and all those annexures being the equivalent of 3 boxes of evidence.

Mr Nassios, the author of the FWA Report stated the importance of the report when questioned at the public hearing held on the 22nd August 2012.

Mrs BRONWYN BISHOP: But the Slater & Gordon and BDO Kendalls reports are fundamentally important to your view?

Mr Nassios: They were certainly important. As I have explained, they were the catalyst, so to speak, of a number of the issues—not all of the issues but certainly a number of the issues, yes.

This is to be compared with KPMG Labor/Green Report who did have access to the whole Report including all the annexures when doing their analysis of FWA and its report. It was confirmed by the General Manager of the FWA Ms Bernadette O’Neil, that KPMG had such access.

It is essential to this dissenting report that the Slater & Gordon/BDO Kendal Report be published in full. Together with all the other annexures the majority report is nothing but a cover-up resulting in information being withheld from the Parliament.

The problem with Mr Thomson was not the monetary threshold for disclosure, it is in fact that Craig Thomson did not disclose at all. The FWA Report including the Slater & Gordon BDO Kendall Report and other annexures and transcripts exposed him as having breached the Commonwealth Electoral Act 1918.

Annexures

Annexure A

BDO Kendall Schedule A (Pages 9-10/26 of the BDO Kendall Report.)

ATM Cash Withdrawal Transactions Commonwealth Bank Mastercard – Mr Craig Thomson

Schedule A covering the period 13th April 2007 24th November 2007.

Annexure B List of Reviews completed since 2007

Annexure C Correspondence between Mr Priani and Mr Fowlie.

- From Mr Pirani to Mr Fowlie Tuesday 4th August 2009 9:18am
- From Mr Fowlie to Mr Pirani Monday 10th August 2009 2:14pm
- From Mr Pirani to Mr Fowlie Tuesday 11th August 2009 10:14am

Annexure D

Email from Mr Pirani to Ms Kathy Jackson Wednesday 20th May 2009 1:44pm

Annexure E

Letter from Ms Kathy Jackson to Mr Ken Fowlie, dated 11th December 2008

Annexure F

Letter from Elias Hallaj, Assistant National Secretary of the Australian Labor Party National Office to Alan Page, Assistant Director Funding and Disclosure the Australian Electoral Commission advising of the Labor Party's Associated Entities, which includes the HSU. 10 March 2009.

Letter from Sue Sayer to Kathy Jackson 12 May 2012

Letter from the AEC to Karl Bitar of the ALP 18 May 2009

Letter from Kathy Jackson to Sue Sayer 26 May 2012

Letter from Kathy Jackson to Paul Pirani 13 October 2012

Annexure G

Letter from Ken Fowlie to Terry Nassios 16 June 2009

Letter from Ken Fowlie to Paul Pirani 30 June 2009

Annexure A

BDO Kendall Schedule A (Pages 9-10/26 of the BDO Kendall Report.)

ATM Cash Withdrawal Transactions Commonwealth Bank Mastercard – Mr Craig Thomson
Schedule A covering the period 13th April 2007 24th November 2007.

Schedule of ATM Cash Withdrawal Transactions
 Commonwealth Bank Mastercard - Mr. Craig Thomson
 Card No.: 5587 0131 6388 0019

Schedule A

Date	ATM	Amount
12/02/2007	NAB ATM KINSTON NEWSAGENCY	500.00
12/02/2007	NON CBA ATM CASH ADV CHARGE	1.50
16/02/2007	WESPAC WALES CNR 2 MELB	500.00
16/02/2007	NON CBA ATM CASH ADV CHARGE	1.50
26/02/2007	STG ATM ST GEORGE BATEAU BAY	300.00
26/02/2007	NON CBA ATM CASH ADV CHARGE	1.50
27/02/2007	SHP 1/2,6 HONEY PO HUNTFIELD	500.00
27/02/2007	NON CBA ATM CASH ADV CHARGE	1.50
06/03/2007	CBA ATM RUNDEL MALL D SA	300.00
06/03/2007	CBA ATM CASH ADVANCE CHARGE	1.25
08/03/2007	CBA ATM MBL KILLARA NSW	500.00
08/03/2007	CBA ATM CASH ADVANCE CHARGE	1.25
22/03/2007	STG ATM LVL 1 O'CONNELL SYDNEY NSW	500.00
22/03/2007	NON CBA ATM CASH ADV CHARGE	1.50
27/03/2007	ANZ ATM FORRESTERS BEACH	500.00
27/03/2007	NON CBA ATM CASH ADV CHARGE	1.50
04/04/2007	WESPAC TERRIGAL	500.00
04/04/2007	NON CBA ATM CASH ADV CHARGE	1.50
04/04/2007	CBA CENTRAL MELBOURNE	500.00
11/04/2007	CBA ATM CASH ADVANCE CHARGE	1.25
13/04/2007	NAB PITT ST NSW	400.00
13/04/2007	NON CBA ATM CASH ADV CHARGE	1.50
16/04/2007	ATM GIRRAWEE	500.00
16/04/2007	NON CBA ATM CASH ADV CHARGE	1.50
20/04/2007	ANZ GOSFORD NSW	500.00
20/04/2007	NON CBA ATM CASH ADV CHARGE	1.50
29/05/2007	CBA MID CITY CTR NSW	500.00
29/05/2007	CBA ATM CASH ADVANCE CHARGE	1.25
04/06/2007	ANZ ATM FORRESTERS BEACH	500.00
04/06/2007	NON CBA ATM CASH ADV CHARGE	1.50
12/06/2007	STG BATEAU BAY NSW	500.00
12/06/2007	NON CBA ATM CASH ADV CHARGE	1.50
14/06/2007	ANZ ATM 68 PITT ST SYDNEY	500.00
14/06/2007	NON CBA ATM CASH ADV CHARGE	1.50
19/06/2007	ANZ ATM PITT ST NSW	500.00
19/06/2007	NON CBA ATM CASH ADV CHARGE	1.50
19/06/2007	CBA BATEAU BAY NSW	500.00
29/06/2007	CBA ATM CASH ADVANCE CHARGE	1.25
16/07/2007	ANZ ATM TOURLEY	500.00
16/07/2007	NON CBA ATM CASH ADV CHARGE	1.50
26/07/2007	WESTPAC ATM CARRINGTON NSW	500.00
26/07/2007	NON CBA ATM CASH ADV CHARGE	1.50
03/08/2007	ATM QANTAS - SYDNEY	500.00
03/08/2007	NON CBA ATM CASH ADV CHARGE	1.50
14/08/2007	CBA ATM BAY VILLAGE NSW	500.00
14/08/2007	CBA ATM CASH ADVANCE CHARGE	1.25
21/08/2007	ANZ ATM QANTAS	500.00
21/08/2007	NON CBA ATM CASH ADV CHARGE	1.50
23/08/2007	CROWN CASINO	500.00
23/08/2007	NON CBA ATM CASH ADV CHARGE	1.50
13/09/2007	ST GEORGE GEORGE ST NSW	500.00
13/09/2007	NON CBA ATM CASH ADV CHARGE	1.50
20/09/2007	ST GEORGE GEORGE ST NSW	300.00
20/09/2007	NON CBA ATM CASH ADV CHARGE	1.50
20/09/2007	CBA ATM WYNARD	500.00
20/09/2007	CBA CASH ADV CHRG	1.25
01/10/2007	CBA ATM BAY VILLAGE NSW	500.00
01/10/2007	CBA CASH ADV CHRG	1.25

Schedule of ATM Cash Withdrawal Transactions
Commonwealth Bank Mastercard - Mr. Craig Thomson
Card No.: 5587 0131 6388 0019

Schedule A

Date	ATM	Amount
08/10/2007	CBA ATM TERRIGAL NSW	500.00
08/10/2007	CBA CASH ADV CHRG	1.25
09/10/2007	CBA ATM EASTERN BCH C	500.00
09/10/2007	CBA CASH ADV CHRG	1.25
16/10/2007	CBA ATM BAY VILLAGE NSW	500.00
16/10/2007	CBA CASH ADV CHRG	1.25
22/10/2007	CBA BATEAU BAY NSW	500.00
22/10/2007	CBA CASH ADV CHRG	1.25
30/10/2007	CBA BATEAU BAY NSW	500.00
30/10/2007	CBA CASH ADV CHRG	1.25
01/11/2007	AAMI GOSFORD	500.00
01/11/2007	NON CBA ATM CASH ADV CHARGE	1.50
05/11/2007	CBA BATEAU BAY NSW	500.00
05/11/2007	CBA CASH ADV CHRG	1.25
12/11/2007	CBA BATEAU BAY NSW	500.00
12/11/2007	CBA CASH ADV CHRG	1.25
14/11/2007	NAB KILLARNEY VALE	500.00
17/11/2007	CBA CASH ADV CHRG	1.25
		<u>102,034.45</u>

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Annexure B List of Reviews completed since 2007

List of Reviews completed since 2007

Year	Party/Entity
2007	Australian Labor Party - National Secretariat
2007	Australian Labor Party - NSW Branch (part 1)
2007	Australian Labor Party - NSW Branch (part 2)
2007	Australian Labor Party - NSW Branch (part 3)
2007	Australian Labor Party - NSW Branch (part 4)
2007	Australian Labor Party - Tasmanian Branch
2007	Australian Labor Party - Victorian Branch (Parts 1 & 2)
2007	Australian Labor Party - Victorian Branch (Part 3 & 4)
2007	Liberal Party of Australia - Federal Secretariat
2007	Liberal Party of Australia - NSW Division (parts 1 & 2)
2007	Liberal Party of Australia - NSW Division (part 3)
2007	Liberal Party of Australia - NSW Division (part 4)
2007	Liberal Party of Australia - SA Division Part 1
2007	Liberal Party of Australia - SA Division (Parts 2 & 3)
2007	Liberal Party of Australia - SA Division
2007	Liberal Party of Australia - Tasmanian Division
2007	Liberal Party of Australia - Victorian Division Part 1
2007	Liberal Party of Australia - Victorian Division Part 2
2007	National Party of Australia
2007	The Australian Greens - Tasmanian Branch
2007	Bunori Pty Ltd
2007	John Curtin House Ltd
2007	John McEwen House Pty Ltd
2008	Australian Greens
2008	Australian Labor Party - National Secretariat
2008	Australian Labor Party - SA Branch (Part 1)
2008	Australian Labor Party - SA Branch (Part 2)
2008	Australian Labor Party Queensland (QLD) - PART 1
2008	Australian Labor Party Queensland (QLD) - PART 2
2008	Australian Labor Party Queensland (QLD) - PART 3
2008	Australian Labor Party Queensland (QLD) - PART 4
2008	Liberal Party of Australia - Queensland
2008	Liberal Party of Australia - Queensland
2008	Liberal Party of Australia - Queensland
2008	Liberal Party of Australia - Queensland
2008	Liberal Party of Australia - Queensland
2008	National Party of Australia
2008	National Party of Australia (NSW) - Part 1
2008	National Party of Australia (NSW) - Part 2
2008	National Party of Australia (NSW) - Part 3
2008	National Party of Australia (NSW) - Part 4
2008	National Party of Australia (NSW) - Part 5
2008	National Party of Australia (NSW) - Part 6
2008	National Party of Australia (Queensland) - Part 1
2008	National Party of Australia (Queensland) - Part 2
2008	Queensland Greens
2008	The Greens NSW (Part 1)
2008	The Greens NSW (Part 2)
2008	6 St Pauls Terrace Trust
2008	Altum Property Trust

2008 ALP Holdings Pty Ltd (SA)
2008 Bass 200 Club
2008 Bayside Forum
2008 Bjelke Petersen Foundation Trust
2008 Blue & White Committee (Victoria)
2008 Canberra Labor Club (Part 1)
2008 Canberra Labor Club (Part 2)
2008 Canberra Labor Club (Part 3)
2008 Casey Business Briefing Club
2008 Cormack Foundation Inc.
2008 Curlew Nominee Trust
2008 Deakin Executive Forum
2008 Enterprise 200 Club
2008 Forward Brisbane Leadership
2008 Higgins 200 Club (Part 1)
2008 Higgins 200 Club (Part 2)
2008 Indi Foundation
2008 John McEwen House Pty Ltd
2008 Kaye Sutherland Memorial Bequest Fund
2008 Kooyong 200 Club
2008 Labor Holdings Pty Ltd
2008 Lady Wilson Foundation
2008 Libco Pty Ltd
2008 Menzies 200 Club
2008 Monash Club
2008 Murray 250 Club
2008 Northwest 200 Club
2008 Parliamentary Liberal Party Communication Committee
2008 Platinum Forum (formerly: Outer Eastern 200 Club)
2008 SA Progressive Business
2008 Supporters for Re-electing Kotsiras
2008 The 500 Club (VIC)
2008 The Jim Killen Young Liberal Foundation
2008 The Page Research Centre Ltd
2008 Violet Bobin Trust
2009 ALP (NT)
2009 ALP (TAS)
2009 ALP (VIC)
2009 Greens (NT)
2009 Democrats (WA)
2009 Democrats (ACT)
2009 Australian Greens (Tas)
2009 Australian Greens (Vic)
2009 Citizens Electoral Council
2009 Family First (Vic)
2009 Australian Greens (ACT)
2009 One Nation (Qld)
2009 One Nation (Vic)
2009 National Party (WA)
2009 Harold Nelson Holdings Pty Ltd
2009 ALP Sisterhood
2009 Emily's List Australia
2009 AADB Pty Ltd

2009 ALP (NSW) Gifts Pty Ltd ➤
2009 CEC Australia (Services) Pty Ltd
2009 Citizens Media Group
2010 ALP ACT
2010 ALP QLD
2010 ALP QLD
2010 ALP QLD
2010 ALP QLD
2010 ALP QLD
2010 Family First - SA
2010 National Party SA
2010 LPA NSW
2010 LPA NSW
2010 LPA NSW
2010 LPA NSW
2010 LPA NSW
2010 LPA NSW
2010 LPA NSW
2010 Socialist Alliance
2010 Socialist Alliance
2010 LPA - Victoria
2010 LPA - Victoria
2010 LPA - Victoria
2010 LPA - Victoria
2010 The Greens (WA) Inc
2010 Country Liberals
2010 Country Liberals
2010 Progressive Business
2010 Friends of Indi
2010 Violet Bobbin Trust
2010 Chifley Research Centre
2010 ALP Legacies & Gifts
2010 John Curtin House
2010 Labour Movement Education Assoc
2010 Perth Trades Hall
2010 Don Chipp Foundation
2010 Kooyong 200 Club
2010 Parliamentary Liberal Party Comm
2010 Blue & White Committee
2010 500 Club VIC
2010 Monash Club
2010 Enterprise Foundation
2010 Indi Foundation
2010 Dunkley Blue Ribbon Club
2010 Bass 200 Club
2010 Bayside Forum
2010 Greater Eastern Network 200 Club
2010 Murray 250 Club
2010 North West 200 Club
2010 Deakin Executive Forum
2010 Menzies 200 Club
2010 Casey Business Briefing Club
2010 Dame Pattie Menzies Foundation

2010 Bunori Pty Ltd
2010 500 Club of NSW
2010 Liberal Asset Management
2010 Liberal Properties Ltd
2010 Cormack Foundation
2010 Platinum Forum
2010 Vapold Pty Ltd
2010 CLP Gifts and Legacies
2010 CLP Legacies and Gifts
2010 Gatenby Investment Trust
2010 Labor Holdings Pty Ltd
2011 Family First - National
2011 ALP WA
2011 ALP WA
2011 ALP WA
2011 ALP WA
2011 Australian Greens - SA
2011 Socialist Equality
2011 Australian Democrats - NAT
2011 National Party - VIC
2011 National Party - VIC
2011 Christian Democrats _WA
2011 LPA TAS
2011 LPA TAS
2011 ALP VIC
2011 ALP VIC
2011 Christian Democrats Fed
2011 Christian Democrats Fed
2011 ALP (VIC)
2011 CDP (Fed)
2011 National Party of Australia (WA) Inc
2011 Liberal Party of Australia - Tasmanian Division
2011 Australian Labor Party (Tasmanian Branch)
2011 Australian Labor Party (South Australian Branch)
2011 Australian Greens - ACT
2011 Senator On-Line
2011 Liberal Democratic Party
2011 Democratic Labor Party (DLP) - NSW Branch
2011 Carers Alliance
2011 Australian Sex Party
2011 Socialist Alliance
2011 One Nation
2011 Democratic Labor Party (DLP) - Victorian Branch
2011 Democratic Labor Party (DLP) of Australia - NATIONAL
2011 Australian Greens - NT
2011 Country Liberals (Northern Territory)
2011 Democratic Labor Party (DLP) - WA Branch
2011 Australian Greens - TAS
2011 Family First Party - QLD
2011 Democratic Labor Party (DLP) - Queensland Branch
2011 Australian Fishing and Lifestyle Party
2011 Family First Party - National
2011 Democratic Labor Party (DLP) - SA Branch

2011 Family First Party - SA
2011 Australian Democrats
2011 Higgins 200 Club
2011 Higgins 200 Foundation
2011 Australian Labor Party - Investment Trust
2011 The Eros Foundation Incorporated
2011 The Page Research Centre Ltd
2011 The Green Institute
2011 The Chifley Research Centre Ltd
2011 Australian Labor Party (Legacies and Gifts) Ltd
2011 Don Chipp Foundation Ltd
2011 CLP Gifts and Legacies Pty Ltd
2011 Gatenby Investment Trust
2011 Australian Labor Party Sisterhood
2011 Donations Club
2011 Liberal Club Limited
2011 SA Progressive Business Incorporated
2011 Liberal Foundation Inc
2011 The Lady Wilson Foundation
2011 Kaye Sutherland Memorial Bequest Fund
2011 Health Services Union
2011 Australian Labor Party - Holdings Pty Ltd (SA).
2012 Christian Democratic Party (Fred Nile Group) WA Branch
2012 Australian Greens (Secretariat)
2012 Australian Labor Party (ALP) - NATIONAL
2012 Liberal Party of Australia (S.A. Division)
2012 Queensland Greens
2012 Liberal Party of Australia -Federal Secretariat
2012 Building Australia Party
2012 Stable Population Party of Australia
2012 Australian Greens (South Australia)
2012 National Party of Australia (S.A.) Inc.
2012 Secular Party of Australia
2012 John Curtin House Limited
2012 Free Enterprise Foundation
2012 Parakeelia Pty Ltd
2012 The Greenfields Foundation
2012 Goulburn 100 Club
2012 Business First
2012 Scoresby City Club
2012 Berwick Ranges 500 Club
2012 Bulleen Supporters Group
2012 Yarra Plenty Women's Group
2012 The Free Enterprise Foundation- the same as Free Enterprise Foundation (see above)
2012 Labor Campaign Pty Ltd
2012 NSW Labor Campaign Investment Pty Ltd
2012 Mornington Gold

Annexure C Correspondence between Mr Priani and Mr Fowlie.

- From Mr Pirani to Mr Fowlie Tuesday 4th August 2009 9:18am
- From Mr Fowlie to Mr Pirani Monday 10th August 2009 2:14pm
- From Mr Pirani to Mr Fowlie Tuesday 11th August 2009 10:14am

From: Paul Pirani [mailto:Paul.Pirani@aec.gov.au]
Sent: Tuesday, 4 August 2009 09:18 AM
To: Ken Fowlie
Subject: Health Services Union [SEC=LEGAL-IN-CONFIDENCE]

LEGAL-IN-CONFIDENCE

Mr Ken Fowlie
Slater & Gordon Lawyers

Dear Mr Fowlie

I refer to previous correspondence relating to your client the Health Services Union and the reporting of electoral expenditure under Part XX of the *Commonwealth Electoral Act 1918*. I also particularly refer to your letter to me of 30 June 2009 in which you indicated that you would provide an update by 31 July 2009.

I am now proceeding to prepare various briefing documents for the Special Minister of State for use when the Parliament resumes on 11 August 2009. It is essential that I receive the previously foreshadowed update from you and your client in relation to the timeframes in which a response is to be provided to the Australian Electoral Commission which meets the reporting requirements contained in Part XX.

The delay in progressing this matter is becoming a concern and will no doubt lead to questions being raised in the Parliament.

I look forward to receiving your prompt advice as to the progress of this matter.

Yours sincerely

Paul Pirani
Chief Legal Officer
Chief Legal Officer Unit
Australian Electoral Commission

Ph: (02) 6271 4474
Fax: (02) 6271 4457

LEGAL-IN-CONFIDENCE

DISCLAIMER:

From: Ken Fowlie [mailto:kfowlie@slatergordon.com.au]

Sent: Monday, 10 August 2009 2:14 PM

To: Paul Pirani

Subject: RE: Health Services Union [SEC=LEGAL-IN-CONFIDENCE]

PRIVILEGED & CONFIDENTIAL

Mr Pirani

Thank you for your email. I refer also to my letter dated 30 June 2009.

Unfortunately, I have not received any further advices from the Industrial Registrar (now, General Manager, Fair Work Australia) regarding its examination of the matters I was instructed by the Union to investigate. Consequently, my client proposes to continue to refrain from providing information to your office at this time. It remains concerned that to do otherwise, could prejudice the inquiries being made by Fair Work Australia.

I will provide you with a further update by the end of August 2009.

Yours Faithfully

Ken Fowlie
Executive Director
Practice Group Leader
Slater & Gordon
Sydney Office
61 2 8267 0603 (d)
0418 604 966 (m)
61 2 8267 0650 (f)

From: Paul Pirani
Sent: Tuesday, 11 August 2009 10:14 AM
To: Ken Fowlie
Cc: Sue Sayer; Brad Edgman
Subject: RE: Health Services Union [SEC=LEGAL-IN-CONFIDENCE]

LEGAL-IN-CONFIDENCE

Dear Mr Fowlie

Thanks for the update. I look forward to being kept informed of the progress in this matter.

While I acknowledge the reason why your client is unable to lodge amended disclosure returns and a third party return at this time due to the particular circumstances of this matter, I note that this delay cannot continue indefinitely.

Accordingly, your clients are hereby placed on notice that if the delay in addressing the requirements contained in Part XX of the Commonwealth Electoral Act 1918 continues for any undue length of time, the AEC will be forced to consider exercising the power contained in subsection 316(3) of the Commonwealth Electoral Act 1918 and to direct notices to produce to both the HSU and to individual members of the HSU Executive.

Yours sincerely

Paul Pirani
Chief Legal Officer
Chief Legal Officer Unit
Australian Electoral Commission

Ph: (02) 6271 4474
Fax: (02) 6271 4457

LEGAL-IN-CONFIDENCE

Annexure D

Email from Mr Pirani to Ms Kathy Jackson Wednesday 20th May 2009 1:44pm

Paul Pirani

From: Paul Pirani
Sent: Wednesday, 20 May 2009 1:44 PM
To: kathy.jackson@hsuvc.asn.au
Cc: Sue Sayer; Brad Edgman
Subject: Disclosure obligations under the Commonwealth Electoral Act [SEC=IN-CONFIDENCE]
Categories: IN-CONFIDENCE

IN-CONFIDENCE

Kathy

I have attempted to contact you twice today and am unable to access your voicemail to leave a message.

I would appreciate having a quick telephone conversation with you to discuss a way forward for ensuring that the National Branch of the HSU has complied with the obligations under sections 314AEA of the Commonwealth Electoral Act 1918 (ie the annual return of an associated entity for 2007-08) and section 314 AEB (the third party political expenditure return for 2007-08 which includes the November 2007 general election).

I am aware of the various articles in the Sydney Morning Herald about the HSU and the expenditure in Dobell that was apparently authorised by Mr Craig Thomson and is alleged to have involved HSU funds. I am also aware of media reports indicating that you have already taken action to refer this matter to BDO Kendall and Slater and Gordon. I also understand from media reports that ther Industrial Registrar may also be investigating this matter.

Yesterday I had a discussion with Mr Michael Williamson who confirmed that the existing third party political expenditure return that we have published only relates to the NSW Branch of the HSU and does NOT include any information about the National Branch of which you are the National Secretary. Similarly, the associated entity returns that we have published apparently do not include the National Branch of your union.

No doubt I will be questioned at Senates Estimates hearing next Thursday 28 May on this matter and would appreciate the opportunity to discuss this matter with you on a without prejudice basis. I just want to be clear about what proactive action you are taking to address this matter (including the proposed timeframes) and to meet the statutory reporting obligations contained in Part XX of the Act.

Paul Pirani
Chief Legal Officer
Chief Legal Officer Unit
Australian Electoral Commission

Ph: (02) 6271 4474
Fax: (02) 6271 4457

IN-CONFIDENCE

Annexure E

Letter from Ms Kathy Jackosn to Mr Ken Fowlie, dated 11th December 2008



Health Services Union

11 December 2008

Mr Ken Fowlie
Executive Director
Slater and Gordon Lawyers
11th Floor, 51 Drutt Street
Sydney NSW 2000

Dear Mr Fowlie,

Referral

The National Executive of the Health Services Union ("the Union") wishes to engage the services of law firm Slater and Gordon to undertake an examination of possible irregularities in the expenditure of the Union for the period 16 August 2002 to 31 January 2008.

Background

The Union is regulated by the Registered Rules of the Union and Schedule 1 of the *Workplace Relations Act 1996*.

On the resignation of the National Secretary Mr Craig Thomson in December 2007, the National Executive resolved that an exit audit would be conducted on the accounts of the Union. This is a routine procedure in the HSU. The Union's National Auditor, Mr Iaan Dick ("the Auditor") was appointed to conduct this audit. A report from the Auditor for the period of 1 July 2007 to December 2008 was provided to the National Executive in a letter to the National Secretary dated 12 May 2008. A copy is included in the enclosures to this letter.

The report identified what appeared to be a number of irregularities in the accounts of the Union and an apparent lack of documentation in support of some expenditure.

The National Office appears to have no official Minute Book or electronic copies of minutes of meetings of the National Executive or National Council for the period that Mr Thomson held the position of National Secretary. A set of draft minutes for all such National Executive meetings as circulated can be made available but these are not necessarily confirmed minutes. National Executive has approved the annual accounts and financial statements for the Union for each of the financial years prior to 2007/2008.

In another letter from the Auditor also dated 12 May 2008, the National Executive was advised that, in the course of preparing the exit audit report, the Auditor had become aware of the existence of a Commonwealth Bank credit card and that in the 2006-2007 financial year a considerable number of cash withdrawals from ATM's had occurred. Whilst the Auditor has noted that these entries have been entered in the Union's books and attributed to various purposes, there appeared to be no documentary evidence to support that expenditure and the Auditor advised that this may be in breach of the reporting guidelines or Schedule 1 to the Workplace Relations Act 1996. The Auditor has sought the response of the National Executive in relation to this matter.

After receiving the exit audit report from the Auditor, National Executive decided to investigate expenditure incurred on union credit cards to which Craig Thomson, and Matthew Burke and Crisalee Stevens (former employees of the Union), were signatories. The examination was conducted by the Union's Officers and covered the period July 2002 to January 2008.

The Officers of the HSU were unable to locate any supporting documentation for most of the withdrawals referred to in 6 below.

Further, there are a number of transactions which are unsupported by any documentation and which are not clearly identifiable as expenses for the purposes of carrying out the objects of the HSU. Some of these items appear to be of a personal nature, and some were incurred after Mr Thomson's resignation from office.

Matthew Burke and Crisalee Stevens also had HSU Diners Club cards. The summary documents list items of expenditure which are not clearly identifiable from the statement descriptions as HSU related, and, in Matthew Burke's case, were incurred after his employment ended. These transactions are not supported by any documentation. *but paid*

As you will know, the HSU is required to file a return identifying any expenditure for electoral purposes. There are transactions in respect of which the invoices suggest that they were political expenditure, and a number of transactions for which there are no invoices/receipts and which may be political expenditure.

Examination

The HSU National Executive requests that you engage an appropriate forensic accounting firm to examine the enclosed documents and report to yourselves and the National Executive on any matters which arise from the above which in their opinion require action or attention by the National Executive, and to make recommendations as to the appropriate course of action the Union ought to take to address matters raised as a result of the investigation.

After receipt of the report of that examination, we seek your advice in relation to the following:

- a. Whether funds of the Union were expended in accordance with the rules of the Union;
- b. Whether any funds of the Union were inappropriately expended, or not clearly identifiable as expenditure consistent with carrying out the objects of the HSU, and if so to what extent;
- c. Whether funds of the Union were misappropriated, and if so to what extent;
- d. If funds of the Union have been misappropriated, or expended without authority, what course or courses of action is or are available to the Union to recover those funds;
- e. Any issues that arise regarding the responsibility of the Union in relation to Schedule 1 of the *Workplace Relations Act 1996*;
- f. Whether it is possible to determine the total sum of Union funds expended on Mr Thomson's campaign to win the seat of Dobell in the 2007 Federal election and if so what that sum is?
- g. What other expenditure in the year 2007 was properly characterised as political expenditure which the Union is obliged to declare to the AEC?
- h. What policies, procedures or practices ought to be adopted by the National Executive and/or National Council of the Union to ensure that the Union has in place proper corporate governance practices to comply with its financial management obligations?

We also seek your advice on the Union's obligations in responding to the second letter from the National Auditor. I advise that the National Auditor has not yet finalised the accounts and financial statements for year 2007/2008 pending our response.

Mr Thomson had accumulated entitlements of annual leave and long service leave of about \$190,000. He has only been paid a relatively small amount of this to date, pending the conclusion of the examination of these matters. We request that you advise Mr Thomson that the National Executive has referred the matter for investigation and pending the outcome of that investigation no further payment of outstanding entitlements will be made. Mr Thomson's address is P.O Box 5253, Chittaway Bay, NSW, 2261.

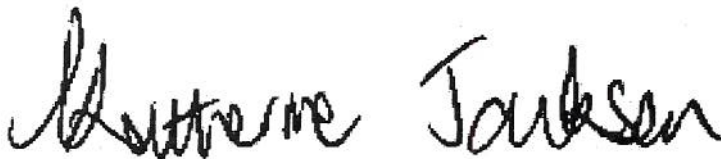
Prior to making any final recommendations to the National Executive, we authorise you to make contact with any person to either gain further relevant information or to give any person the opportunity to respond to any relevant findings of the investigation.

Please find enclosed the following documents:

1. Copy of a letter to the National Auditor dated 9 April 2008;
2. A copy of a letter from the National Auditor to the National Secretary dated 12 May 2008 together with attachments;
3. A copy of a second letter from the National Auditor to the National Secretary dated 12 May 2008;

4. Copies of credit card statements for Diners and Commonwealth Bank credit card accounts in the name of the HSU whose signatories were Craig Thomson, Matthew Burke and Crisalee Stevens;
5. Copies of analyses of that credit card expenditure conducted by Officers of the HSU;
6. A copy of a spread sheet listing credit card cash withdrawals;
7. A copy of a document listing payments from an SGE account of the HSU;
8. A copy of a letter to the National Secretary from the Australian Electoral Commission dated 21 January 2008;
9. A copy of the 2003 Terms of Reference for the Finance Committee, including 'Delegation of Approval for Outlays';
10. A copy of the Financial Governance Guidelines adopted by the National Executive in March this year; and
11. Copies of unconfirmed draft minutes of the National Executive.

Please contact me if you want any further information or want to discuss any of the matters raised.



Yours sincerely
Kathy Jackson
National Secretary

National Office

208-212 Park Street, South Melbourne, Victoria, 3205 Telephone: (03) 9341 3328 Facsimile: (03) 9341 3329

Email: hsu@hsu.net.au

Website: www.hsu.net.au

Annexure F

Letter from Elias Hallaj, Assistant National Secretary of the Australian Labor Party National Office to Alan Page, Assistant Director Funding and Disclosure the Australian Electoral Commission advising of the Labor Party's Associated Entities, which includes the HSU. 10 March 2009.

Letter from Sue Sayer to Kathy Jackson 12 May 2012

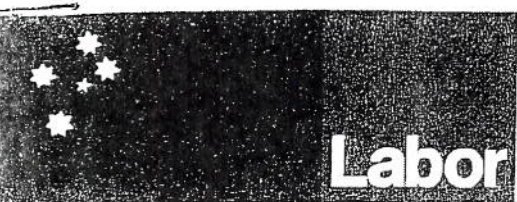
Letter from the AEC to Karl Bitar of the ALP 18 May 2009

Letter from Kathy Jackson to Sue Sayer 26 May 2012

Letter from Kathy Jackson to Paul Pirani 13 October 2012

65

206



Labor National Secretariat

10 March 2009

Mr Alan Page
Assistant Director
Funding and Disclosure
Australian Electoral Commission
PO Box 6172
KINGSTON ACT 2604

see later list
rec'd 27/5/09.
only 3 AEs
not 14

Dear Mr Page

In reference to your letter of 4 March 2009 please find attached the list of Associated Entities as requested.

If you have any questions please do not hesitate to contact me.

Yours sincerely

Elias Hallaj
Assistant National Secretary

✓ Australian Manufacturing Workers Union (AMWU)

Dave Oliver
National Secretary
PO Box 160
Granville NSW 2142

✓ Australian Services Union (ASU)

Paul Slape
National Secretary
Ground Floor, 116 Queensberry Street
Carlton South VIC 3053

✓ Australian Workers Union (AWU) - NO

Paul Howes
National Secretary
Level 10, 377-383 Sussex Street
Sydney NSW 2000

✓ Communications, Electrical and
Plumbing Union of Australia (CEPU)

Peter Tighe
National Secretary
Suite 701, Level 7
5-13 Rosebery Avenue
Rosebery NSW 2018

Construction, Forestry, Mining
And Energy Union (CFMEU)

John Sutton
National Secretary
PO Box Q235 QVB PO
Sydney NSW 1230

Health Services Union (HSU)

Kathy Jackson
National Secretary
208-212 Park Street
South Melbourne VIC 3205

✓ Liquor, Hospitality and Miscellaneous Union (LHMU)

Louise Tarrant
National Secretary
Locked Bag 9
Haymarket NSW 1240

Maritime Union of Australia (MUA)

Paddy Crumlin
National Secretary
Level 2, 365 Sussex Street
Sydney NSW 2000

National Union of Workers (NUW)

Charlie Donnelly
National Secretary
PO Box 343
North Melbourne VIC 3051

Rail, Tram & Bus Union (RTBU)

Greg Harvey
National Secretary
83-89 Renwick Street
Redfern NSW 2016

Shop Distributive and Allied
Employees Association (SDA)

Joe De Bruyn
National Secretary
6th Floor, 53 Queen Street
Melbourne VIC 3000

Textile, Clothing and Footwear
Union of Australia (TCFUA)

Michele O'Neill
National Secretary
PO Box 441
Carlton South VIC 3053

Transport Workers Union (TWU)

Tony Sheldon
National Secretary
PO Box 47
Parramatta NSW 2124

United Firefighters Union of Australia (UFUA)

Peter Marshall
National Secretary
410 Brunswick Street
Fitzroy Vic 3065

Ms Kathy Jackson
National Secretary
HSU
208-212 Park Street
SOUTH MELBOURNE Vic 3205

Dear Ms Jackson

Re: Associated Entity Annual Disclosure Obligation – 2007- 08 Financial Year

I am writing to advise that it has come to our attention that your entity has a disclosure obligation under Part XX of the *Commonwealth Electoral Act 1918* (the Act) for the 2007-08 financial year. The due date for lodging a return was 20 October 2008.

The Australian Electoral Commission (AEC) recently contacted all branches of the Australian Labor Party requesting a complete list of all associated entities. HSU was included on the list.

The financial controller of each associated entity has a responsibility to lodge a disclosure return for the 2007-08 financial year in accordance with Part XX of the Act unless the financial details of the entity are included in a disclosure return for a related entity. If the information for your associated entity has been included on the return of another associated entity, or your associated entity has already submitted a return under a different name, please contact the AEC on (02) 6271 4552 so our records can be updated

Failure to lodge the required disclosure return is a serious criminal offence which may result in the AEC referring this matter to the Commonwealth Director of Public Prosecutions.

A return form is included with this letter to assist you in meeting your disclosure obligation.

Signed forms, including any attached spreadsheets, can be lodged with the AEC via:

- Email to fad@aec.gov.au;
- Fax to (02) 6271 4555; or
- Post to:

Australian Electoral Commission
Funding and Disclosure Section
PO Box 6172
KINGSTON ACT 2604

Important information to note is provided below.

Disclosure Threshold

The disclosure threshold for the 2007-08 financial year is 'more than \$10, 500.' Transactions below this threshold are not usually required to be reported individually.

Third Party Return of Political Expenditure

A *Third Party Return of Political Expenditure* is also required to be lodged by Associated Entities where they incur political expenditure in excess of the \$10, 500 threshold in 2007-08. Copies of the return form and handbooks are available from the AEC website (www.aec.gov.au).

Donor Returns

The AEC uses information from associated entity returns to identify donors. Please ensure that the detailed information on your return is sufficient for the AEC to contact the person or organisation that has made the donation to advise them of their reporting obligation.

Further general information about completing the return can be obtained from the *Funding and Disclosure Handbook for Associated Entities*, available on the AEC website (www.aec.gov.au) or by contacting the Funding and Disclosure Section on (02) 6271 4552 or by emailing fad@aec.gov.au

Yours sincerely



Sue Sayer
Director, Funding and Disclosure
Australian Electoral Commission

12 May 2009



Our Ref:

Title First Name Last Name
Party
Address Line 1
Address Line 2
Address Line 3

Dear Title Last Name

RE: Associated Entities of Federally Registered Political Parties

As you would be aware, bodies and organisations that satisfy the definition of 'Associated Entity' in section 287(1) of the *Commonwealth Electoral Act 1918* (the Act) have a disclosure obligation in relation to a given financial year. The definition of an associated entity is set out on the reverse of this letter.

The Australian Electoral Commission (AEC) requires an accurate and up to date list of all associated entities of federally registered political parties in order to inform them of their disclosure obligations under Part XX of the Act. To assist the AEC with this would you please provide a list of all organisations that are affiliated with your party for the 2008/2009 financial year, including:

- The name of a current contact for each organisation; and
- Full address details of each associated entity.

Where an associated entity operates under alternative names or abbreviations, please provide all details. Precise and accurate records will allow the AEC to contact and advise associated entities of their financial disclosure obligations for this financial year in a timely and efficient manner.

Should you have any queries in relation to this matter please do not hesitate to contact the funding and disclosure section on (02) 6271 4552 or via email at fad@aec.gov.au.

Your assistance in providing this information by 29 May 2009 is appreciated.

Yours sincerely



Sue Sayer
Director
Party Registration and Financial Disclosure

18 May 2009

Mr Karl Bitar
Australian Labor Party (ALP)
PO Box 6222
KINGSTON ACT 2604



Sue Sayer

AEC

Director Funding and Disclosure

BY E-MAIL: fad@aec.gov.au

26 May 2009

Dear Ms Sayer

Re: Associated Entity Annual Disclosure Obligation 2007 – 09

Thank you for your letter dated 14 May 2009

The HSU has not yet lodged a return as it is not yet able to determine whether expenditure was disclosurable.

Like most unions, it is customary for the Health Services Union to conduct an exit audit following a change of leadership within the Union or within one of its branches. An exit audit was conducted within the National office of the Union in 2008.

During the audit, the Union's National Auditor raised some issues, which were extensively reviewed by the Union.

The National Executive of the Union then unanimously resolved that the issues required further independent investigation.

The Union appointed a national law firm, Slater & Gordon, and an independent auditor, national accounting firm, BDO Kendall to conduct that investigation and make recommendations. A copy of the letter to Slater and Gordon is attached.

That investigation is continuing and no conclusions have been reached regarding the matters the subject of the investigation or the conduct of any officers of the Union.

The Industrial Registrar and the HSU National Executive have remained apprised of the progress of the investigation.

National Office



Until the investigation is completed we are not in the position to accurately disclose political expenditure.

I am advised that Slater & Gordon expect to provide a report by early June.

We will inform you of any developments.

I will provide you with further advice when it comes to hand.

Yours Sincerely

A handwritten signature in cursive script that reads "Kathy Jackson". The ink is dark and the handwriting is fluid and legible.

Kathy Jackson

National Secretary

13 October 2009



Mr. Paul Pirani
Chief Legal Officer
Australian Electoral Commission
By Email: Paul.Pirani@aec.gov.au
By: Fax 02 6271 4552

Dear Sir

I refer to your letter of 14 May 2009 to me and the subsequent exchanges of correspondence between you and the Union's lawyer Mr Ken Fowle.

Please find enclosed:

1. Annual Return relating to Political Expenditure for Financial Year 2006 – 2007;
2. Annual Return relating to Political Expenditure for Financial Year 2007 – 2008; and
3. Donor Return for Financial Year 2007 – 2008.

Associated Entity

In your letter of 14 May you indicated that you regarded the HSU as an associated entity. Respectfully, we take a different view.

By virtue of s27 of the Fair Work (Registered Organisations) Act 2009 ("Act"), the Health Services Union is an incorporated entity. As you know, the Union is divided into a number of separate branches, each of which, pursuant to the rules of the Union and the operation of the Act, operate autonomously, including with respect to their financial affairs and reporting with respect to those affairs. This is particularly governed by s242 of the Act. A number of the branches of the Union, specifically the NSW Branch, the Tasmanian Branch, the West Australian Branch and several of the Victorian Branches are Associated Entities of the Australian Labor Party. In each case, they are affiliated to the Australian Labor Party in their respective states and they provide delegates to the conferences of those state branches of the ALP.

Pursuant to s242(5) of the Act, the National Office of the Union is regarded by the Act as a separate branch for the purpose of reporting. However, unlike the state branches of the Union described above, the HSU National Office, is not affiliated with the ALP and does not provide delegates to any forum of the ALP. It seems to us, in those circumstances, that the National Office of the HSU cannot be an Associated Entity having regard for the definition within the Australian Electoral Commission Act.

Naturally, we are happy to discuss this with you. We understand that the National office of the ALP is of the same view.

Please do not hesitate to contact me if you have any further questions.

Yours faithfully

A handwritten signature in black ink, appearing to read "Kathy Jackson".

Kathy Jackson
National Secretary

National Office

208-212 Park Street, South Melbourne, Victoria 3205, Postal address PO Box 3078, South Melbourne, Victoria 3205
Telephone: (03) 9341 3328, Facsimile: (03) 9341 3329. www.hsu.net.au, Email: hsu@hsu.net.au. ABN 68 243 768 561

Annexure G

Letter from Ken Fowlie to Terry Nassios 16 June 2009

Letter from Ken Fowlie to Paul Pirani 30 June 2009



BB

Level 11
51 Druitt Street
Sydney NSW 2000

www.slatergordon.com.au

GPO Box 1584
SYDNEY NSW 2001

DX 1163 SYDNEY

Direct Ph: +61 2 8267 0603
Fax: + 61 2 8267 0650
Email: kfowlie@slatergordon.com.au

16 June 2009

Private & Confidential

Mr Terry Nassios
A/g Industrial Registrar
Australian Industrial Registry
Level 4, 11 Exhibition St
MELBOURNE VIC 3000

The period is
2002 to 2007
The period covering
Mr Thomson's term

Dear Sir

Health Services Union ("Union")

Please find enclosed "Report on suspected irregularities in the expenditure of the National Office of the Health Services Union 2002 – 2007" ("The Report").

This Report contains the findings of an independent investigation undertaken by Slater & Gordon Lawyers and Accountants' BDO Kendalls ("BDO").

I was yesterday instructed by the National Executive of the Union to provide a copy of the Report to you. This followed a briefing given to the National Executive by me and BDO on the contents of the Report.

I have also been instructed to provide a copy of a resolution passed by the Executive, yesterday, which was in the following terms:

National Executive:

Directs Slater & Gordon to provide a copy of the Findings to the Industrial Registrar and a copy of relevant findings of the Investigation to the Australian Electoral Commission ("AEC") as soon as practicable under cover of a letter providing a copy of this resolution and indicating to both that the Union is prepared to co-operate with whatever further investigation and inquiries those entities wish to make into the matters the subject of the Investigation.

I and BDO hold all other copies of the Report. A copy of the Report has not been provided to any other person, including Mr Thomson, the former National Secretary of the Union.

I reiterate that the Union stands ready to co-operate with whatever further investigation and inquiry you and your office wish to make into the matters contained within the Report.

Please contact the writer if you require any further assistance with respect to this matter.

Yours faithfully

Ken Fowlie
Executive Director
Practice Group Leader
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30 June 2009

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Dear Sir

Health Services Union

I am instructed by the National Executive of the Health Services Union ("Union").

Along with directors from BDO Kendalls, I recently concluded an investigation and made findings in relation to expenditure within the National Office of the Union in the period 2002 - 2007.

As part of the investigation we made certain findings in relation to expenditure incurred by the National Office of the Union which may require disclosure under the Commonwealth Electoral Act 1918 ("CEA").

The full findings of our investigation have now been provided to the Industrial Registrar.

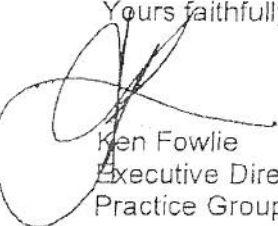
I understand that the Industrial Registrar has initiated inquiries pursuant to s330 of the RAO Schedule to the Workplace Relations Act 1996.

So as not to prejudice those investigations my client proposes to await the conclusion of the Industrial Registrar's inquiries before finalising any disclosure under the CEA.

Whilst I do not know how long it will take before Industrial Registrar reaches a conclusion to his investigation, I will ensure that you are provided with a further update by 31 July 2009.

Please contact me if I can be of any further assistance in relation to this matter in the interim.

Yours faithfully



Ken Fowlie
Executive Director
Practice Group Leader
SLATER & GORDON

**The Hon Bronwyn Bishop MP
Shadow Special Minister of State**

**The Hon Alex Somlyay MP
Deputy Chair – JSCEM**

Senator Scott Ryan

Senator Simon Birmingham