

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates

2016 - 2017

Division/Agency: Australian Securities and Investment Commission

Question No: 204

Topic: Application of S306B of the Australian Electoral Act

Reference: Hansard pages 36-37 (19 October 2016)

Senator: Gallacher, Alex

Question:

Senator GALLACHER: Last night the Australian Electoral Commission gave evidence in the Finance and Public Administration Committee that a political party may be required to repay gifts where that company becomes insolvent. Is anyone at ASIC aware of section 306B of the Australian Electoral Act?

Mr Tanzer: No.

Senator GALLACHER: Are you not aware of the act?

Mr Tanzer: We are aware of the act but not of this particular provision or its operation with respect to ASIC's responsibilities.

Senator GALLACHER: You are not aware of it ever being used previously. Is that correct?

Mr Medcraft: We are happy to take it on notice and come back to you.

Answer:

The Corporations Act empowers a liquidator to recover certain property or payments made by the insolvent company prior to the liquidator's appointment. Those powers could extend to the recovery, in some circumstances, of gifts made to political parties. ASIC is unaware of an external administrator basing a recovery action on section 306B of the *Commonwealth Electoral Act 1918*. However, as it is not a provision that directly concerns ASIC's remit, it would not necessarily have come to our attention. Searches of relevant databases disclose that the Courts appear not to have considered s306B, which might suggest limited use of this provision.