

# Compliance Investigation Report

1973 Foundation Pty Ltd

April 2015

Released under the Freedom of Information Act 1982



**AEC**

Australian Electoral Commission

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## Investigation details

Location of investigation:	Australian Electoral Commission West Block, Queen Victoria Terrace PARKES ACT 2600
AEC investigation officers:	Mr Brad Edgman – Director Mr Alan Page – Assistant Director Mr Paul Lau – Compliance Officer
Entity staff involved:	Mr Dan Ashcroft – Company Secretary

## Purpose of the investigation

The purpose of the compliance investigation was to assess whether the disclosure return for the 2012-13 financial year lodged on behalf of the 1973 Foundation Pty Ltd (the Entity) complies with disclosure obligations as set out in Part XX of the *Commonwealth Electoral Act 1918* (the Act).

The Australian Electoral Commission (AEC) has power under s.316(2A) of the Act to review records and gather relevant information to assess whether the disclosure obligations have been met. Section 316(2A) requires any officer of the union to produce documents requested in a notice from the AEC within the period and in the manner specified in the notice.

## Disclosure obligations

Registered political parties and associated entities are required under the provisions of the Act to lodge annual disclosure returns. The disclosure obligation is to disclose accurately and report as required under s.314AEA of the Act, after the end of each financial year:

- the total amount received by, or on behalf of, the Entity;
- the total amount paid by, or on behalf of, the Entity; and
- the total outstanding amount of all debts incurred by or on behalf of, the Entity.

Section 314AC of the Act further provides that if the sum of all amounts received by, or on behalf of, the Entity from a person or organisation during a financial year is more than the threshold, the return must include the particulars of that sum.

Similarly s.314AE of the Act provides that if the sum of all outstanding debts incurred by, or on behalf of, the associated entity to a person or an organisation during a financial year is more than the threshold, the return must include the particulars of that sum.

## Scope of the investigation

The AEC investigation was limited to those financial records held by the Entity that were considered to be relevant and sufficient to determine the completeness and accuracy of the information disclosed in the Entity's return. Under the Act the AEC does not have specific authority to, and did not, examine any other aspects of the Entity's financial operations such as the existence or effectiveness of internal controls.

The AEC's investigated the extent to which the financial information reported in all parts of the Entity's disclosure return was complete and accurate. As part of this process, the AEC issued one notice to the Company Secretary under s.316(2A).

The General Secretary responded to the notice by the due date providing the full set of records specified in the notice.

## Records examined

The key financial records requested from the Associated Entity included:

- bank statements for all bank accounts;
- transaction reports for all accounts from the Associated Entity's accounting system;
- audited financial statements; and
- only working papers supporting the receipting disclosure made by the Entity in its disclosure return was provided no working document showing how the total payment figure was derived.

# Investigation Findings: Overview

## Review findings

### Lodgement requirement

Section 314AEA(1) of the Act requires if an entity is an associated entity at any time during a financial year, the entity's financial controller must furnish a return to the Electoral Commission, in the approved form, within 16 weeks after the end of the financial year, which for the 2012-13 financial year was 20 October 2013.

The Entity lodged its 2012-13 annual disclosure return by the due date.

### Total receipts, payments and debts

Section 314AEA(1)(a) of the Act requires the financial controller of an associated entity to report the total amount received by, or on behalf of, the entity during the financial year. Similarly, s.314AEA(1)(b) of the Act requires the financial controller of an associated entity to report the total amount paid, for or on behalf of, the entity during the financial year. These transactions must be reported on a gross basis inclusive of GST.

Section 314AB(2)(c) of the Act requires the financial controller of an associated entity to report the total outstanding amount as at the end of the financial year of all debts incurred by, or on behalf of, the entity.

To satisfy this, the Entity must account for all transactions that result in receipts from and payments to external sources including those received from and paid to other associated entities or parties. These transactions must be reported on a gross basis inclusive of GST. Based on the records provided, the investigation revealed that the Entity had materially under-disclosed total receipts and over-disclosed total payments.

In the calculation of total receipts the Entity did not include the full rental income. The full gross sum of rental income should have been disclosed, including the amount of \$99,607 that was deducted as expenses by CBRE from its holding account prior to the funds being deposited into the Entity's Westpac Business One account. Likewise, the adjustment of the opening and closing balance in the same holding account by \$3 036 should have also been included as total receipts.

No explanation can be given for the over-disclosure of the payment total as no working papers were supplied by the entity showing how this total payment figure was derived.

Table 1 below provides a summary of the total amounts as reported in the Entity's financial records contrasted against the figures reported in the annual disclosure return.

**Table 1: Total amounts received and paid – comparison**

Details	Total receipts \$	Total payment \$
Disclosure Return	396 595	413 056
Calculated Totals	499 238	289 755
<b>Difference</b>	<b>-102 643</b>	<b>123 301</b>
	<b>Under-disclosed</b>	<b>Over-disclosed</b>

In view of the above, Part 2a and Part 4 of the *Request for Amendment* form need to be corrected to reflect the amounts listed below.

Required amendment	
Amended total receipts	\$499 238
Amended total payments	\$289 755

### Total Debts

Section 314AEA(1)(c) of the Act requires the financial controller of an associated entity to report the total outstanding amount, as at the end of the financial year, of all debts incurred by, or on behalf of, the Entity if the sum of all outstanding debts is more than the threshold amount. In the disclosure return, the Entity reported a total debt of \$440. However, the Balance Sheet in the audited financial statements reported that the Entity had debts totalling \$22 961 as Trade and other payables.

Table 2 below provides a summary of the total amounts as reported in the Entity's records contrasted against the figures reported in the disclosure return. A detailed listing of these amounts is provided in Attachment A of this report.

**Table 2: Total debts as at 30 June 2013 - comparison**

Details	Total debts \$
Disclosure Return	440
Balance Sheet	22 961
<b>Difference</b>	<b>-22 521</b>
	<b>Under disclosed</b>

In view of this Part 5 of the *Request for Amendment* form should show the amount as set out below.

**Required amendment**

Amended total debts	\$22 961
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**Debts above the disclosure threshold**

Section 314AE of the Act provides that if the sum of all outstanding debts, incurred by, or on behalf of, the entity to a person or an organisation during a financial year is more than the threshold for that year, the return must include the particulars of that sum. The threshold for 2012-13 was for sums in excess of \$12 100.

In its 2012-13 disclosure return, the Entity did not report any debts above the disclosure threshold. However, as discussed above, examination of the Entity's *Trial Balance* revealed that the Entity had outstanding debt of \$22 961. This sum is made up of a single debt owed to the Australian Taxation Office for GST payables.

Details of the amount requiring amendment to the disclosure return is outlined below.

Required amendment		
Name	Address	Amount
Australian Taxation Office	28-36 Ainslie Avenue, Canberra ACT 2600	\$22 961

**Attachment A** provides the details of how the amounts for total receipts, total payments and total debts were calculated based on the information contained in the Entity's records.

**Compliance in future disclosure returns**

It is recommended that consideration be given to addressing the following matters before lodgement of disclosure returns in the future.

**Recognition of gross receipts and payments**

The Entity, when reporting on total receipts and total payments, must be mindful to ensure all receipts and payments are reported on a gross basis. This includes, as reported above in the case of rental income collected on the Entity's behalf by CBRE, adding back in any fees deducted or balance adjustments made in an agent's holding account before sums are deposited into the Entity's bank accounts.

**Recognition of debts**

The Entity, when reporting on total debts, needs to take into account the total outstanding liabilities as at June 30 of the financial year. In the case of debt, however, the net amount

owed is applicable when determining whether debts owed exceeds the disclosure threshold. For example, in the case of the Australian Taxation Office, this may equate to the amount of GST collected *less* GST paid *plus* any Income and PAYG taxes payable.

### Work papers supporting disclosure

The AEC recommends in future years that the Entity keeps a comprehensive set of working papers in support of disclosures declared. The working papers should clearly and accurately set out the way all amounts being disclosed are derived, with full calculations and reference to relevant figures provided in the source documents.

### Conclusion

Except for the matters noted above, nothing has come to our attention that causes us to believe that the Entity has not complied, in all material respects, with its disclosure obligations under the Act.

### Enquiries and Assistance

Should the Entity require any assistance regarding its disclosure obligations under the Act, please contact the AEC's Funding and Disclosure Branch either on telephone number (02) 6271 4552 or by email at [fad@aec.gov.au](mailto:fad@aec.gov.au).

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## Attachment A

The tables below compares the Entity's return to the amounts identified from the bank statements and the Balance sheet.

**Table A1: - Total receipts calculated by the AEC for the financial year ending June 30, 2013 using the bank statements provided by the Entity**

Bank statements	Total receipts
<b>13</b>	396,595
<i>add expenses deducted from gross rental income</i>	99,607
<i>add adjustment of CBRE holding account balance</i>	3,036
<b>GRAND TOTAL</b>	<b>499,238</b>
<b>Amount disclosed by the Entity</b>	<b>396,595</b>
<b>Variance from the Annual Disclosure Return</b>	<b>-102,643</b>
	<i>Under-disclosed</i>

**Table A2: - Total payments calculated by the AEC for the financial year ending June 30, 2013 using the bank statements provided by the Entity**

Bank statements	Total payments
<b>13</b>	190,149
<i>add expenses deducted from gross rental income</i>	99,607
<b>GRAND TOTAL</b>	<b>289,755</b>
<b>Amount disclosed by the Entity</b>	<b>413,056</b>
<b>Variance from the Annual Disclosure Return</b>	<b>123,301</b>
	<i>Over-disclosed</i>

**Table A3: - Total debts calculated by the AEC for the financial year as at June 30, 2013 using the balance sheet provided by the Entity**

Balance sheet	Total debts
Trade and other payables	22,961
<b>GRAND TOTAL</b>	<b>22,961</b>
<b>Amount disclosed by the Entity</b>	<b>440</b>
<b>Variance from the Annual Disclosure Return</b>	<b>-22,521</b>
	<i>Under-disclosed</i>

## REDACTION CODES

- 1 Personal Information (name) redacted.
- 2 Personal Information (date of birth) redacted.
- 3 Personal Information (photograph) redacted
- 4 Personal Information (facsimile of signature) redacted.
- 5 Personal Information (facsimile of manuscript initialling) redacted.
- 6 Personal Information (Individual's address) redacted.
- 7 Personal Information (individual's telephone number) redacted.
- 8 Personal Information (individual's opinion) redacted.
- 9 Personal Information (opinion about individual) redacted.
- 10 Personal Information (employment history) redacted.
- 11 Personal Information (qualifications) redacted.
- 12 Personal Information (health) redacted.
- 13 Business information (Bank Account details) redacted.
- 14 Business information (Billing Account details) redacted.
- 15 Legal Professional Communication redacted.
- 16 Deliberative material redacted.
- 17 Irrelevant material redacted.

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