

Compliance Investigation Report

Australian Rail Tram and Bus Industry Union

Western Australian Branch

2013–14 Annual Disclosure Return

August 2015



AEC

Australian Electoral Commission

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Released under the Freedom of Information Act 1982

Purpose of this report

This report provides Mr Philip Woodcock, the financial controller of the associated entity the Australian Rail Tram and Bus Industry Union Western Australian Branch (the Entity), with the Australian Electoral Commission's (AEC) opinion as to whether the 2013–14 disclosure return he lodged for the Entity has complied with obligations under s.314AEA of the *Commonwealth Electoral Act 1918* (the Act).

Associated entity

The 2013–14 annual disclosure return lodged by Mr Woodcock identifies the Entity as an associated entity of the following registered political party:

- Australian Labor Party (Western Australian Branch).

Disclosure obligations

Registered political parties and associated entities are required under the provisions of the Act to lodge annual disclosure returns.

Section 314AEA of the Act requires the financial controller of an associated entity to report 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
- the total outstanding amount of all debts incurred by or on behalf of, the entity.

Section 314AC of the Act also 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.

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, the return must include the particulars of that sum.

Extracts of the texts of these provisions of the Act are reproduced in *Attachment A* to this report.

Conduct of the investigation

The AEC has authority under s.316(2A) of the Act to review records and gather relevant information to assess whether these disclosure obligations have been met. Section 316(2A) requires the financial controller of an associated entity to produce the documents requested in a notice from the AEC within the period and in the manner specified in the notice.

As part of this process, the AEC issued one notice to Mr Woodcock under s.316(2A):

- the notice required the Entity to provide financial records and other documents in relation to its financial operations for 2013–14.

A copy of the notice issued under s.316(2A) of the Act is provided at *Attachment B*.

Scope of the investigation

The AEC's investigation was limited to those financial records and documents which were considered to be relevant to determine the completeness and accuracy of information reported in the Entity's 2013–14 disclosure return in accordance with the requirements of s.314AEA(5) and s.314AC of the Act - i.e. the particulars of all amounts received that were more than \$12 400.

The AEC does not have authority under Part XX of the Act to examine any other aspects of the financial operations of the Entity such as the existence or effectiveness of internal controls.

Stakeholder engagement

The AEC's general practice, prior to commencing an investigation, is for the AEC's Funding and Disclosure Branch to contact the relevant officer of the associated entity (or political party when investigating a political party) to discuss the scope of the investigation. This contact may, in some instances, involve face to face meetings.

Prior to commencement of this compliance investigation, staff of the AEC contacted Mr Woodcock by telephone to discuss the scope of the investigation process.

It is also the AEC's practice prior to finalising an investigation, to discuss with the relevant officer of the associated entity or political party, its opinion on compliance issues. Where there are any errors and omissions the AEC will discuss with the relevant officer how they might have occurred.

The objective of such discussions is to encourage the associated entity or political party to examine its internal processes and systems in order to improve the accuracy of future annual disclosure returns and thereby improve compliance with Part XX of the Act.

The AEC's opinion

After examining the documents provided by Mr Woodcock for the investigation, the AEC identified the issue detailed below relevant to compliance with disclosure obligations under Part XX of the Act.

1. Accuracy in reporting – amendment required

Receipts of more than \$12 400

Section 314AC of the Act 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. For the 2013–14 financial year the threshold was for sums in excess of \$12 400. In calculating the sum, individual receipts of \$12 400 or less need not be counted.

To comply with this provision, the details of any amount above the disclosure threshold received from any external source must be disclosed in the return regardless of the nature of the receipt. These details include reporting the particulars of the amount, name, and address of the person or organisation from whom the funds were received.

The Entity's 2013–14 disclosure return reported the particulars of five individual receipts that were more than \$12 400 and which totalled \$80 500. The AEC identified a further five additional receipts of more than \$12 400 which totalled \$89 072. Mr Woodcock was in agreeance that the particulars of these additional receipts were also required to be reported in the Entity's 2013–14 disclosure return.

On 15 May 2015, Mr Woodcock lodged an amendment to the Entity's 2013–14 disclosure return to report the particulars of the five previously omitted receipts as detailed in the table below.

Required amendment – Part 3: Amounts of more than \$12 400 received		
Received from	Address	Amount
Platinum Commercial	PO Box 344 North Perth WA 6906	\$13 406
Platinum Commercial	PO Box 344 North Perth WA 6906	\$15 184
Platinum Commercial	PO Box 344 North Perth WA 6906	\$15 184
Platinum Commercial	PO Box 344 North Perth WA 6906	\$32 366
RTBU National Office	Lv 2, 4-10 Goulburn St Sydney 2000	\$12 932

Conclusion

Based on the records examined, it is the AEC's opinion that an amendment to the Entity's 2013–14 disclosure return to include particulars of the additional five receipts identified above was required to ensure full compliance with the Act.

In view of the subsequent lodgement by Mr Woodcock on 15 May 2015 of the amendment to the Entity's 2013–14 disclosure return which included particulars of the five receipts listed above, the AEC is of the opinion that the disclosure return now accurately sets out the information required to be disclosed under the provisions of ss.314AEA(5) and 314AC of the Act.

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Andrew Gately
A/g First Assistant Commissioner
Australian Electoral Commission

21 August 2015

Extracts from the *Commonwealth Electoral Act 1918*

314AA Interpretation

- (1) In this Division:

amount includes the value of a gift, loan or bequest.

314AEA Annual returns by associated entities

- (1) 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, setting out:
- (a) the total amount received by, or on behalf of, the associated entity during the financial year, together with the details required by section 314AC; and
 - (b) the total amount paid by, or on behalf of, the entity during the financial year; and
 - (c) if the entity is an associated entity at the end of the financial year—the total outstanding amount, as at the end of the financial year, of all debts incurred by, or on behalf of, the entity, together with the details required by section 314AE.
- (2) Amounts received or paid at a time when the entity was not an associated entity are not to be counted for the purposes of paragraphs (1)(a) and (b).
- (3) If any amount required to be set out under paragraph (1)(b):
- (a) was paid to or for the benefit of one or more registered political parties; and
 - (b) was paid out of funds generated from capital of the associated entity;
- the return must also set out the following details about each person who contributed to that capital after the commencement of this section:
- (c) the name and address of the person;
 - (d) the total amount of the person's contributions to that capital, up to the end of the financial year.
- (4) Subsection (3) does not apply to contributions that have been set out in a previous return under this section.
- (5) Sections 314AC and 314AE apply for the purposes of paragraphs (1)(a), (b) and (c) of this section to a return for an associated entity in the same way as they apply for the purposes of paragraphs 314AB(2)(a), (b) and (c) to a return for a registered political party.

314AC Amounts received

- (1) If the sum of all amounts received by, or on behalf of, the party from a person or organisation during a financial year is more than \$10,000, the return must include the particulars of that sum.
- Note: The dollar amount mentioned in this subsection is indexed under section 321A.
- (2) In calculating the sum, an amount of \$10,000 or less need not be counted.
- Note: The dollar amount mentioned in this subsection is indexed under section 321A.
- (3) The particulars of the sum required to be furnished under subsection (1) are the amount of the sum and:
- (a) if the sum was received from an unincorporated association, other than a registered industrial organisation:
 - (i) the name of the association; and
 - (ii) the names and addresses of the members of the executive committee (however described) of the association; or
 - (b) if the sum was purportedly paid out of a trust fund or out of the funds of a foundation:
 - (i) the names and addresses of the trustees of the fund or of the foundation; and
 - (ii) the title or other description of the trust fund, or the name of the foundation, as the case requires; or

- (ba) if the sum was received as a result of a loan—the information required to be kept under subsection 306A(3), or the name of the financial institution, as the case requires; or
- (c) in any other case—the name and address of the person or organisation.

314AE Outstanding amounts

- (1) If the sum of all outstanding debts incurred by, or on behalf of, the party to a person or an organisation during a financial year is more than \$10,000, the return must include the particulars of that sum.

Note: The dollar amount mentioned in this subsection is indexed under section 321A.

- (2) The particulars of a sum required to be furnished under subsection (1) are the amount of the sum and:
 - (a) if the sum was owed to an unincorporated association, other than a registered industrial organisation:
 - (i) the name of the association; and
 - (ii) the names and addresses of the members of the executive committee (however described) of the association; or
 - (b) if the sum was purportedly incurred as a debt to a trust fund or to a foundation:
 - (i) the names and addresses of the trustees of the fund or of the foundation; and
 - (ii) the title or other description of the trust fund, or the name of the foundation, as the case requires; or
 - (c) in any other case—the name and address of the person or organisation.

316 Investigation etc.

- (1) In this section:

authorised officer means a person authorised by the Electoral Commission under subsection (2).

prescribed person means a person whose name is included in a list in a report mentioned in subsection 17(2A).

- (2) The Electoral Commission may, by instrument in writing signed by the Electoral Commissioner on behalf of the Electoral Commission, authorize a person or a person included in a class of persons to perform duties under this section.
- (2A) An authorised officer may, for the purpose of finding out whether a prescribed person, the financial controller of an associated entity or the agent of a registered political party has complied with this Part, by notice served personally or by post on:
 - (a) the agent or any officer of the political party; or
 - (aa) the financial controller of the associated entity or any officer of the associated entity; or
 - (b) the prescribed person or, if the prescribed person is a body corporate, any of its officers; as the case may be, require the agent, financial controller, person or officer:
 - (c) to produce, within the period and in the manner specified in the notice, the documents or other things referred to in the notice; or
 - (d) to appear, at a time and place specified in the notice, before the authorised officer to give evidence, either orally or in writing, and to produce the documents or other things referred to in the notice.

COMMONWEALTH ELECTORAL ACT 1918 – SECTION 316(2A)**NOTICE TO PRODUCE DOCUMENTS
DISCLOSURE RETURN 2013–14**

To: Mr Philip Woodcock
Branch Secretary
Australian Rail Tram and Bus Industry Union
Western Australian Branch
2/10 Nash Street
PERTH WA 6000

I, Seema Srivastava, an authorised officer within the meaning of s.316 of the *Commonwealth Electoral Act 1918* (the Act), for the purpose of finding out whether you, as the financial controller of the Australian Rail Tram and Bus Industry Union Western Australian Branch (the Entity), have complied with Part XX of the Act, hereby require you, pursuant to s.316(2A) of the Act, to produce the information referred to below within the period and in the manner specified in this notice.

Information to be produced in relation to Financial Year ending 30 June 2014

1. Reports from the Entity's accounting system in electronic format listed in Attachment A. (Attachment A to this notice lists the reports, the file format required and instructions on how to download and provide the data).
2. Statements of all bank / financial institutions accounts including:
 - a. any term deposit/investment accounts;
 - b. loan accounts;
 - c. property management agents; and
 - d. broker accounts, if applicablefor the period from 1 July 2013 to 31 July 2014 (i.e. **13 Months**).
3. A list of all gifts-in-kind received during the period 1 July 2013 to 30 June 2014, including the calculations of the valuation ascribed to each gift.
4. The working documents clearly demonstrating how the individually disclosed receipt figures (amounts above the threshold of \$12,400) shown in Part 3 of the Entity's 2013–14 annual disclosure return were derived.
5. Any other document or record forming part of the Party's accounting records not covered in Attachment A but which was used in the compilation of Part 3 of the disclosure return. Wherever possible these documents and records are to be provided in electronic format.
6. A completed and signed *Document Checklist* provided at Attachment B.

Timing and manner of production

You are required to produce the documents referred to in this notice to:

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

by no later than 5:00pm Wednesday, 1 April 2015

Refusal or failure to comply with this notice

It is an offence for you to refuse or fail to comply with this notice to the fullest extent capable – s.316(5) and (5A). It is also an offence to supply false or misleading evidence in purported compliance with this notice – s.316(6).

Dated: 12 March 2015

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Seema Srivastava
Assistant Commissioner
Funding and Disclosure

An authorised officer for the purposes of section 316 of the Act

Attachment A

TECHNICAL SPECIFICATION FOR COMPUTER DATA – MYOB

You informed us that the Entity uses MYOB accounting system to record all its financial transactions. The AEC uses IDEA audit software to assist in the investigation process and interrogation of data. The steps below provide you with guidance on how to prepare and provide the data.

Step 1: Required reports from the accounting system

- a. Chart of Accounts
- b. Trial Balance Summary (as at 30 June 2014)
- c. General Ledger Summary (as at 30 June 2014)
- d. General Ledger [Detail] for all bank accounts
- e. Bank Deposit Slip for amounts above \$12,400

Step 2: Extract reports

For extraction from the MYOB system the above reports must be set to cover the period from 1 July 2013 to 30 June 2014 ensuring that no other range limits are applied to these reports and no other editing is performed on the data. Where the accounting system provides an option of producing reports with or without account numbers ensure that all reports are set to include account numbers.

The key steps to extract each of the above reports:

Important – Before extracting reports from the accounting system, please ensure that all fields, in particular the memo/description field in the General Ledger [Details] report are sufficiently expanded to display the full content of those fields.

- a. Open the report
- b. Restrict to the financial year 2013–14
- c. From **Send to** menu select format **Simple Text File** and from the **Save as Type** menu select **Text Files (*.TXT)**
- d. Encrypt the data. This is an optional step, but strongly recommended by AEC.
- e. If you do not have your own encryption software:
 - save the reports in a location of your choice prior to encrypting the data (e.g. your local desktop)
 - open encryption procedure manual at <http://www.aec.gov.au/encryption>
 - follow the instructions in the encryption document which provides details of how to save, encrypt, burn and password protect* the data
- f. Copy the data to CD-ROM or DVD (we do not recommend copying the data to USB sticks/thumb drives or attaching it to email since these media are less secure)

*Please ensure the password/pass-phrase used to encrypt the data is NOT transported with the CD ROM/DVD. At the time of despatch you should email the password to us at: fad@aec.gov.au.

Alternatively, we will contact you to obtain the password once the data has been received.

Step 3: Deliver the data

To ensure the secure delivery of the data, it is recommended that the data is either:

- delivered by 'safe hands' courier; or
- posted via *Registered Mail*.

AEC's postal address

or

AEC's physical address

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

West Block Offices
Queen Victoria Terrace
PARKES ACT 2600

Enquiries: for further assistance please contact Warren Kelly, Senior Compliance Officer, on 02 6271 4416 or by email at fad@aec.gov.au.

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.

Released under the Freedom of Information Act 1982