

Compliance Investigation Report

Australian Greens

2013–14 Annual Disclosure Return

November 2015



AEC

Australian Electoral Commission

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Released under the Freedom of Information Act 1982

Purpose of the report

This report provides the party agent of the registered political party Australian Greens (the Party), Mr Brett Constable, with the Australian Electoral Commission's (the AEC) opinion as to whether the 2013-14 annual disclosure return lodged on behalf of the Party has complied with obligations under sections 314AB, 314AC and 314AE of the *Commonwealth Electoral Act 1918* (the Act).

Disclosure obligations

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

Section 314AB of the Act requires the agent of a registered political party and each state branch of the registered party to report after the end of each financial year:

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

Section 314AC of the Act also provides that 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 the threshold, the annual disclosure 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 party to a person or an organisation during a financial year is more than the threshold, the annual disclosure 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 agent of a registered party 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 Constable under s.316 (2A) as follows:

- the notice required the Party to provide its 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* to this report.

Scope of the investigation

The AEC's investigation was limited to those financial records and documents which were considered relevant to determine the completeness and accuracy of information reported in the Party's 2013-14 annual disclosure return in accordance with the requirements of sections 314AB, 314AC and 314AE of the Act.

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

Stakeholder engagement

The AEC's general practice, prior to commencing an investigation, is to contact the relevant officer of the political party to discuss the scope of the investigation. This contact may involve face to face meetings.

Prior to commencement of this compliance investigation, staff of the AEC contacted Mr Constable 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 political party its opinion on compliance issues. Where there are any errors or omissions the AEC will discuss with the relevant officer how they might have occurred.

The objective of such discussions is to encourage the 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 Constable for the investigation, the AEC identified several issues relevant to compliance with disclosure obligations under sections 314AB, 314AC and 314AE of the Act. The issues are detailed below.

Accuracy in reporting – amendments required

Total Receipts and Payments

Section 314AB(2)(a) of the Act requires the Party agent to report the total amount received by, or on behalf of, the Party during the financial year. To satisfy this, the Party must account for all transactions that result in receipts from external entities. These transactions must be accounted for on a gross basis without any offsetting, inclusive of GST.

Section 314AB(2)(b) of the Act requires the Party agent to report the total amount paid by, or on behalf of, the Party during the financial year. To satisfy this, the Party must account for all transactions that result in payments to external entities. These transactions must be accounted for on a gross basis without any offsetting, inclusive of GST.

Transactions within the Party, including those between its individual bank accounts, represent internal transfers. Such transactions should be eliminated from the calculation of total receipts and payments to avoid inflating the total amounts reported in the return.

Total reportable receipts by the Party were under-stated in the Party's 2013-14 annual disclosure return due to errors in the process of eliminating transfers between bank accounts and the entry of a net transaction, rather than full transactions, in the ledger. The amount of total receipts should be amended from \$6 346 373 to \$6 675 280.

Total reportable payments by the Party were under-stated in the Party's 2013-14 annual disclosure return due to errors in the process of eliminating transfers between bank accounts and the entry of a net transaction, rather than full transactions, in the ledger. This understatement was partially offset by an amount which was incorrectly included in total payments. The amount of total payments should be amended from \$6 076 383 to \$6 369 223.

The recommended amendments to correct the under-disclosures are summarised in the table below. Further details relating to the amendments are included at *Attachment C*.

Required Amendment – Part 1a and Part 3: Total Receipts and Payments		
	Receipts	Payments
Amount disclosed in return	\$6 346 373	\$6 076 383
Amended total	\$6 675 280	\$6 369 223

Individual 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 Party 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.

The Party's 2013–14 disclosure return reported the particulars of eight individual receipts that were more than \$12 400 and which totalled \$4 229 500. During the course of the investigation the Party agent identified one unreported receipt of \$14 880 which should have been reported in the 2013-14 annual disclosure return. The recommended amendment is detailed in the table below.

Required amendment – Part 2: Amounts of more than \$12 400 received		
Received from	Address	Amount
Avant card	165 Victoria Street Beaconsfield NSW 2015	\$14 880

Conclusion

Based on the records examined, it is the AEC's opinion that an amendment to the Australian Green's 2013-14 annual disclosure return to correct the matters noted above was required to ensure that the return accurately set out the information required to be disclosed under the provisions of sections 314AB, 314AC and 314AE of the Act.

The AEC recommends the Party avoid future under-disclosure of Total Receipts and Total Payments by ensuring accurate elimination of transfers between the Party's internal bank accounts and recording of full transactions, rather than net transactions, for all entries in the ledger.

In view of the subsequent lodgement by Mr Constable on 4 November 2015 of the amendment to the Party's 2013-14 annual disclosure return, the AEC is of the opinion that the return now accurately sets out the information required to be disclosed under the provisions of sections 314AB, 314AC and 314AE of the Act.

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Tim Courtney
A/g First Assistant Commissioner
Australian Electoral Commission

12th November 2015

Extracts from the *Commonwealth Electoral Act 1918*

314AB Annual returns by registered political parties

- (1) Subject to this Division, the agent of each registered political party and of each State branch of each registered political party must, within 16 weeks after the end of each financial year beginning on or after 1 July 1992, furnish to the Electoral Commission a return:
 - (a) that is in an approved form; or
 - (b) that is constituted by the audited annual accounts of the registered political party or the State branch, in a form that is approved by the Electoral Commission.
- (2) A return under paragraph (1)(a) or (1)(b) must set out the following:
 - (a) the total amount received by, or on behalf of, the party during the financial year, together with the details required by section 314AC;
 - (b) the total amount paid by, or on behalf of, the party during the financial year;
 - (c) the total outstanding amount, as at the end of the financial year, of all debts incurred by, or on behalf of, the party, together with the details required by section 314AE.

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 Brett Constable
Party Agent
Australian Greens
2/3 Moonah Place
TORQUAY
VIC 26011,

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 party agent of the Australian Greens (the Party), have complied with Part IX 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 Party'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. Reports from the Party's accounting system not listed in Attachment A but used in the compilation of the disclosure return.
3. Documents or other records not maintained as part of the accounting system but used in the compilation of the disclosure return, including, but not limited to:
 - a. excel spreadsheets;
 - b. extracts from any database system/s maintained in conjunction with the accounting system; and
 - c. manual records, such as deposit slips, receipts, register of non-cash gifts received.
4. Statements of all bank/financial institutions accounts including:
 - a. any investment accounts;
 - b. loan accounts; and
 - c. broker accounts, if applicable.for the period 1 July 2013 to 31 July 2014 (ie 13 months).
5. Bank reconciliation statements for:
 - a. each account as at 30 June 2013; and
 - b. each account as at 30 June 2014.

6. Terms and conditions of all loans outstanding as at 30 June 2014.
7. 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.
8. The working documents clearly demonstrating how the final amounts for: total receipts; total payments; and total debts, were derived, together with how the listings of: threshold receipts; and threshold debts were derived, for the amounts shown on the Party's 2013–14 annual disclosure return.
9. 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:

Attention:
Ralph Fayed
Compliance Section
Funding and Disclosure Branch
Australian Electoral Commission
50 Marcus Clarke Street
CANBERRA ACT 2600

by no later than **5:00pm Monday, 6 July 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: 2 June 2015

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Seema Srivastava
Assistant Commissioner
Funding and Disclosure Branch

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

Attachment C

Details of required amendment - Part 1a: Total receipts

Bank account name	Receipts from external entities per AEC investigation	Receipts from external entities per Australian Greens supporting documents	(Under)/Over disclosure
Cheque	\$5 422 806	\$4 943 615	\$(479 191)
Cash management	\$897 046	\$897 330	\$284
Community Sector	\$300 526	\$451 873	\$151 347
Credit Union Saver	\$3 470	\$3 470	\$0
Term deposits	\$1 916	\$569	\$(1 347)
Undeposited funds	\$13 450	\$13 450	\$0
Gifts in kind	\$36,066	\$36,066	\$0
Total	\$6 675 280	\$6 346 373	\$(328 907)

Details of required amendment - Part 3: Total payments

Bank account name	Payments to external entities per AEC investigation	Payments to external entities per Australian Greens supporting documents	(Under)/Over disclosure
Cheque	\$6 361 503	\$5 882 313	\$(479 190)
Cash management	\$597	\$150 881	\$150 284
Community Sector	\$7 123	\$7 123	\$0
Credit Union Saver	\$0	\$0	\$0
Term deposits	\$0	\$0	\$0
Undeposited funds	\$0	\$0	\$0
Gifts in kind	\$0	\$36 066	\$36 066
Total	\$6 369 223	\$6 076 383	\$(292 840)

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