

# Compliance Review Report

## Australian Greens (South Australia)

### 2013–14 Annual Disclosure Return

December 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 (South Australia)(the Party), Mr Ian McDonald, 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 review

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 a notice to Mr McDonald under s.316 (2A) requiring 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 review

The AEC's review 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 a review, is to contact the relevant officer of the political party to discuss the scope of the review. This contact may involve face to face meetings.

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

It is also the AEC's practice, prior to finalising a review, 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.

On 23 November 2015 the AEC provided Mr McDonald with a draft of the report for his consideration and comment. Mr McDonald was asked to provide his comments by 7 December 2015. The state treasurer of the Party, Mr Mark Keogh, called the AEC on 2 December 2015, and emailed the AEC on 14 December 2015, to advise that the Party had no comment to make in respect to the draft report. *hdsq*

## The AEC's Opinion

### 1. Timely lodgement

The 2013-14 annual disclosure return for the Party was lodged with the AEC on 4 September 2014. As lodgement occurred by the due date of 20 October 2014, it complied with the requirement under s.314AB (1) to lodge a return for a registered political party within 16 weeks after the end of the financial year. *hdsq*

### 2. Accuracy in reporting – amendments required

#### Total Receipts

Section 314AB (2) (a) of the Act requires the Party agent to report the total amount received by, or

transactions that result in receipts from external entities, including all gifts received in kind. All transactions must be accounted for on a gross basis without any offsetting, inclusive of GST.

Total reportable receipts by the Party were under-stated in the Party's 2013-14 annual disclosure return by an amount of undisclosed gifts in kind. The AEC recommends an amendment of the figure reported for total receipts in the Party's 2013-14 annual disclosure return to \$1 501 854. The recommended amendment is set out below.

Part 1a: Total Receipts – amendment recommended		
Original entry	Total receipts as per annual return lodged 4 September 2014	\$1 499 514
Amended entry	Amended total receipts recommended per this report	\$1 501 854

**Gifts in kind**

Total reportable gifts in kind received by the Party were under-stated in the Party's annual disclosure return. The AEC recommends an amendment of the figure reported for total gifts in kind in the Party's 2013-14 annual disclosure return to \$8 840, as set out below.

Part 1b: Total Gifts in kind – amendment recommended		
Original entry	Total gifts in kind as per annual return lodged 4 September 2014	\$6 500
Amended entry	Amended total gifts in kind recommended per this report	\$8 840

**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. Multiple amounts received by the Party from one payee on the same day are treated as one amount for the purposes of determining whether a receipt is required to be individually disclosed.

The Party's 2013-14 disclosure return reported the particulars of nine individual receipts that were more than \$12 400 and which totalled \$1 192 727. During the course of the review the Party agent identified two receipts which should have been reported in the 2013-14 annual disclosure return. The recommended amendments for the two receipts are detailed in the table below.



## Required amendment – Part 2: Amounts of more than \$12 400 received

Received from	Address	Amount disclosed in return	Amended amount
Australian Greens	GPO Box 1108 CANBERRA ACT 2601	\$171 721	\$176 721
Australian Electoral Commission	PO Box 6172 KINGSTON ACT 2604	\$378 239	\$394 239

## Matters requiring future action

The AEC recommends the Party avoid future under-disclosure of individual receipts by recognising:

- refunds of amounts exceeding the threshold as receipts for individual disclosure
- multiple amounts received, by the Party from one payee on the same day, as one amount for the purposes of determining whether a receipt is required to be individually disclosed.

The AEC also recommends the Party maintain a central register of gifts in kind to ensure accurate reporting of this item in future.

The above issues have been acknowledged by the Party's financial controller.

## Conclusion

The AEC is of the opinion that the 2013–14 annual disclosure return for the Party lodged with the AEC on 4 September 2014 complied with the requirement under s.314AB(1) of the Act to lodge a return for a political party within 16 weeks after the end of the financial year.

However, given the discrepancies identified and the subsequent requirement to lodge an amendment to rectify those discrepancies, the AEC is of the opinion that the 2013–14 annual disclosure return lodged by the Party on 4 September 2014 did not comply with the provisions of sections 314AB, 314AC and 314AE of the Act.

In view of the lodgement by Mr McDonald on 14 December 2015 of the amendment to the Party's 2013–14 annual disclosure return, the AEC is of the opinion that the disclosure return (as amended) now accurately sets out the information required to be disclosed by a political party 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

17<sup>th</sup> December 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 Ian McDonald  
Party Agent  
Australian Greens (South Australia)  
PO Box 75  
HENLEY BEACH SA 5022

I, Tim Courtney, 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 (South Australia) (the Party), 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 ended 30 June 2014**

1. Please provide us with the documents *in the specified format* listed in *Attachment A* of this notice.
2. 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: Mrs Lisa O'Shaughnessy  
Compliance Section  
Funding and Disclosure Branch  
Australian Electoral Commission  
PO Box 6172  
KINGSTON ACT 2604

by no later than **5:00pm Monday, 7 September 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: 6<sup>th</sup> August 2015

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Tim Courtney  
A/g First Assistant Commissioner  
Australian Electoral Commission

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

Released under the Freedom of Information Act 1982

## 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