

UNDERTAKING TO THE ELECTORAL COMMISSIONER

Undertaking to the Electoral Commissioner given for the purposes of section 114 of the *Regulatory Powers (Standard Provisions) Act 2014* in relation to an enforceable provision under the *Commonwealth Electoral Act 1918*

by
Kim Marie Swanson

1. Glossary

- 1.1 In this Undertaking, unless the contrary intention appears, the definitions in section 4 of the Act and this clause apply:

Act means the *Commonwealth Electoral Act 1918*.

AEC means the Australian Electoral Commission.

Business day means that is not a Saturday a Sunday or a declared public holiday in the Australian Capital Territory.

Regulatory Powers Act means the *Regulatory Powers (Standard Provisions) Act 2014*.

2. Background

Person giving undertaking

- 2.1 This Undertaking is given to the Electoral Commissioner by Kim Marie Swanson, for the purposes of section 114 of the Regulatory Powers Act.
- 2.2 Kim Marie Swanson was a candidate for the Senate in the 2019 Federal Election.

Obligation to make disclosures

- 2.3 Under the Act, Kim Marie Swanson was required to make disclosures using the approved form to the AEC in respect of the 2019 Federal Election for:
- 2.3.1 donations received (s 304(2));
 - 2.3.2 electoral expenditure incurred (s 309(2)); and
 - 2.3.3 discretionary benefits (s 309(4)).
- 2.4 If Kim Marie Swanson received no donations or incurred no electoral expenditure in relation to an election, sections 307 and 313 of the Act still require a nil return to be lodged with the AEC.
- 2.5 Under the Act the relevant returns above were required to be made by 2 September 2019.

Failure to make disclosures

- 2.6 Kim Marie Swanson did not return the necessary disclosures outlined above to the AEC despite the AEC notifying Kim Marie Swanson of their obligations to do so prior to the due date and subsequently on numerous occasions.

- 2.7 The failure to make the required disclosures contravenes the civil penalty provisions in sections 304 and 309 of the Act.
- 2.8 Under section 384A of the Act, each civil penalty provision of the Act is enforceable under Part 6 of the Regulatory Powers Act

3. Undertaking

- 3.1 Under section 114 of the Regulatory Powers Act, the Electoral Commissioner as the authorised person for that Act may accept any of the following Undertakings in respect of contravention of sections 304 and 309 of the Act:
- 3.1.1 a written undertaking given by a person that the person will, in order to comply with a provision enforceable under this Part, take specified action;
 - 3.1.2 a written undertaking given by a person that the person will, in order to comply with a provision enforceable under this Part, refrain from taking specified action;
 - 3.1.3 a written undertaking given by a person that the person will take specified action directed towards ensuring that the person does not contravene a provision enforceable under this Part, or is unlikely to contravene such a provision, in the future.

Future disclosures to be made to the AEC

- 3.2 Should she nominate as a candidate in any future federal election, Kim Marie Swanson will ensure that she meets her obligations to make the disclosures set out at clause 2.3.1, 2.3.2, 2.3.3 or 2.4 by the required statutory timeframes.

4. Acknowledgements

- 4.1 Kim Marie Swanson acknowledges that:
- 4.1.1 the AEC will make this Undertaking publicly available on the Transparency Register as set out in s 384A(2A) of the Act;
 - 4.1.2 the Electoral Commissioner and Officials of the AEC may, from time to time, make public reference to this Undertaking and the circumstances giving rise to this Undertaking;
 - 4.1.3 where an event or issue occurs that may prevent the fulfillment of clause 3 of the Undertaking, the Electoral Commissioner will not consent to vary the dates specified unless a request that outlines the event or issue and reasons why the variation is required is submitted in writing as soon as reasonably practicable after the event or issue occurs, but no later than three calendar days prior to the specified date; and
 - 4.1.4 breaching the Undertaking may result in the Electoral Commissioner enforcing the Undertaking through the Federal Court.

5. Duration of Undertaking

5.1 This Undertaking comes into effect when:

5.1.1 the Undertaking is executed by Kim Marie Swanson; and

5.1.2 the Electoral Commissioner accepts the Undertaking so executed by Kim Marie Swanson.

5.2 This Undertaking ceases to have effect once the requirements of clause 3 have been completed.

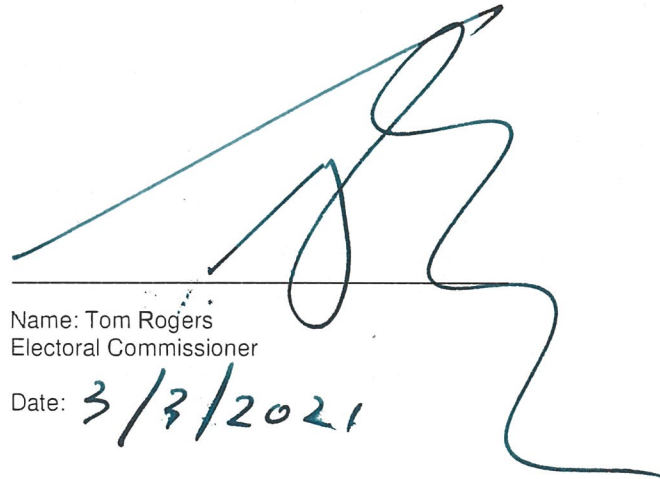
Executed by



Kim Marie Swanson

Date: 4/3/2021

Accepted by the Electoral Commissioner pursuant to section 114 of the Regulatory Powers Act



Name: Tom Rogers
Electoral Commissioner
Date: 3/3/2021