



Tony Abbott MHR

Federal Member for Warringah
Minister for Health and Ageing
Leader of the House of Representatives

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ELECTORAL COMMISSIONER

June 8, 2004

Andy Becker
Electoral Commissioner
P O Box E201
Kingston ACT 2604

Dear Sir

I am writing pursuant to section 316 of the Electoral Act to seek a review of the attached notice (Attachment A) to produce documents.

On two grounds, I contend that the notice is unreasonable and should be withdrawn: first, the Trust is manifestly not an associated entity; and second, should this contention not be accepted, it would be unfair to require disclosure of donors six years after the Trust was established, especially given the Commission's advice at the time (Attachment B) that disclosure was not required.

The Commission's letter of June 6 1999 states that the Trust "does not constitute an associated entity at this time and accordingly is not required to lodge a disclosure return". The Commission noted that the Trust may become an associated entity but only "if the activities of the Trust alter". I can assure you that the Trust's objects and activities remained absolutely unchanged from its formation in August 1998 till its dissolution in 2001.

The Trust was established after the Queensland Electoral Commission failed to act upon my warning that the One Nation Party was invalidly registered under the Queensland Electoral Act and was not legally entitled to receive electoral funding. The Trust's purpose was to help fund legal actions to challenge the Queensland Electoral Commission's decision to pay money to One Nation in Queensland. I note that the Queensland Court of Appeal subsequently upheld the contention which the Trust was formed to support.

The Trust made no payments to political parties, no payments to political candidates and no payments to political campaigns. The Trust was non-partisan in the sense that its trustees included a former minister in the Labor Government as well as a former Liberal MP. Should the Commission be disinclined to believe me, I could provide a Trust audit statement.

The fact that there may arguably have been some indirect benefit to other political parties in a successful legal challenge to One Nation's Queensland registration certainly does not make the Trust an "associated entity". I have recently completed a 1000 kilometre bike ride to raise money for the Westmead Hospital children's leukaemia research project. The publicity noted that I was the Health Minister in the Howard Government. There may have been some political benefit to the Liberal Party but on no reasonable interpretation does this make Westmead Hospital an "associated entity".

When the Trust was first established, I informally inquired of a senior barrister experienced in electoral law whether the Trust might attract a disclosure obligation and was told this could not possibly be the case. On that basis, donors were told that there would be no disclosure. After the Commission's 1998 query, I again informally sought senior counsel's advice and was again reassured that there was no reasonable basis on which disclosure could be required – hence my reply (Attachment C) which elicited the Commission's letter (referred to earlier) accepting that disclosure was not required.

Even if the Commission's original decision not to require disclosure was wrong (which I emphatically dispute), it would be very unfair for the Commission to require disclosure now, six years after the event, in response to last year's political and media campaign. All the significant facts about the Trust were publicly known in 1998 (and, in order to assist the Commission, I am attaching a series of press articles and interview transcripts which explain, in exhaustive detail, everything about the Trust). All that changed, in the highly charged atmosphere after her gaoling last year, was Ms Hanson's status from villain to victim. To deflect attention from her criminal prosecution in Queensland, there was an attempt to pin the blame on a Howard Government minister and the so-called "secret slush fund" which was neither secret nor slush. If the Queensland Electoral Commission had done its job differently, none of these problems would ever have arisen and the Trust would never have been set up.

How could it be unnecessary to require disclosure in 1999 but necessary to require disclosure in 2004 when all that's changed is the political dynamic? How can it be fair to require disclosure of donors' identities now, in a very different set of circumstances, when it was not necessary to require disclosure at the time they gave?

I am happy to discuss this further should the Commission want but am strongly of the view that pursuing this notice could bring the Commission into disrepute. In response to the hue and cry of last year, the Commission has already sought (and been given) answers to a long list of questions (Attachment D). I should note that since the Commission's inquiry of last year, a Queensland Criminal Justice inquiry has traversed much the same ground and concluded that there was no wrong doing on my part.

Yours sincerely,

[SIGNATURE REDACTED]

Tony Abbott