

Patricia Georgee

From: Darren Churchill [REDACTED]
Sent: Wednesday, 24 April 2013 4:53 PM
To: FAD
Cc: Roger Howe
Subject: Australian Democrats Comments on Submitted Evidence (from Roger Howe, National Secretary)
Attachments: 23042013_Comments on submitted evidence_Roger Howe.pdf; 23042013_Letter to AEC_Donella Greer_signed.pdf
Importance: High
Categories: FAD Correspondence

Dear Donella (and Shawn) (cc Roger Howe),

The Australian Democrats National Secretary, Roger Howe, has asked me to send the following documents to you for our Submission to your letter dated 8th April 2013.

Please acknowledge receipt.

Regards,
Darren

Darren Churchill
National President, Australian Democrats
[REDACTED]

Roger Howe
National Secretary, Australian Democrats
[REDACTED]

Comments on submitted evidence

Note: References are to the documents and the page and paragraph of the evidence provided. The terms National Executive and NE are used throughout and mean the same. 'Contentions are statements appearing in the Response Letter. Faction is a term used to describe members represented by John Davey. Bolded terms are from the Response Letter.

Document & reference	Comment
<i>Response Letter & Annexures</i>	<p>Overall, in our view, the letter and annexures read together seek to compensate for the failure to hold in our view a valid meeting in the first instance. The Constitution and Standing Orders are then read incorrectly or used out of context to justify subsequent actions. The comments below point to the various discrepancies.</p> <p>In addition, documents provided as evidence in most cases do not satisfy an evidentiary requirement for the contentions made in the response letter. Accordingly, clarification of the points and events is also detailed below while being mindful of the Commission's requirement that no new evidence be produced. In instances where the contentions are not relevant to the matters for determination, this has been noted and where personal allegations have been made, these are refuted.</p>
<i>Definition of 'minutes' used throughout</i>	<p>No minutes have been provided to support the main contention that party processes have been followed in changing office bearers. The term 'minutes' is therefore incorrectly used. At each instance, the reference is to the results of email ballots. These are represented as being formal minutes of a meeting. As already submitted, Standing Orders 40.7 and 40.8 provide for email ballots as follows:</p> <p><i>40.7 The result of any vote conducted by email must be declared provisionally within 48 hours of the close of the poll.</i></p> <p><i>40.8 The record must then be treated in the same fashion as, and form part of, the minutes of Executive.</i></p> <p>Order 40.7 describes the result as provisional, and the clear implication of Order 40.8 is that email ballots must form 'part of' and not the whole of the minutes. This is because the Orders subsequently require the results to be reported to a properly constituted meeting. It is only at that time that the ballot result comes into effect. Every e-mail ballot result, even if it had been constituted properly (and our view is that they were not because most of them were not conducted by the National Secretary as required under Standing Orders), continues to be provisional at best.</p> <p>There has been no amendment to the Standing Orders to allow the use of email motions except as outlined in accordance with the Standing Orders, Clause 40 of Part 1 and Clause 4 of Part 6.</p> <p>There was no trigger for emails motions to decide the faction's motions. And, the purported email motions were not conducted in accordance with the Standing Orders, Clause 40 of Part 1 and Clause 4 of Part 6. These departures were pointed out at the time for all the email motions (before any decisions were made, as required under Clause 3 of Part 1) by any of Darren Churchill, Roger Howe, David Collyer, Max Baumann. Or, after the invalid use of NEmotions@googlegroups.com commenced, by either of David Collyer or Chris Ridings.</p>

Document & reference	Comment
	<p>Email motions must also be minuted and included as part of the previous meeting Minutes, for approval at a subsequent meeting. They were not.</p> <p>No correction of the process was attempted, despite the departures being demonstrated.</p>
<p><i>Response Letter to the Australian Electoral Commission</i> Par 3</p>	<p>'distribution of email motions'</p> <p>The Constitution and Standing Orders require email lists to be managed and form part of the Australian Democrats IT infrastructure. A list held on social networks does not fulfil these criteria because ultimately the list is the property of a foreign organisation (Google). In addition, Google may remove members at any time.</p> <p>The NEmotions@googlegroups.com is not an official list of the Australian Democrats. It appears to be a controlled social networking site maintained by Google with invited members, such members being invited and accepting invitations from the person making the invitation, who is in turn a client of Google. As I understand it the purpose of such a site is for blog style consecutive comments and the dissemination of links to other information which may or may not be on a website associated with the person making the invitation. Details of invitees are as I understand are limited to email accounts. No member of the National Executive has access. At no time did the NE approve or sanction a list on this site.</p> <p>The National Executive at all times has maintained the ne-members@democrats.org.au list and it is a comprehensive list.</p> <p>Mr Stuart Horrex is not the National Secretary of the party.</p> <p>'carelessly or deliberately did not update this list'</p> <p>Roger Howe did not maintain and administer the NE List: ne-members@democrats.org.au. The Membership Officer, Robin Davis, has been allocated this responsibility since 2010. Prior to that the previous Membership Officer, Tim Law, was responsible for the NE List (assisted by Robin Davis from 2009), although the ultimate authority for it rests constitutionally with Anthony David (and previously Chris Quinn, earlier Tim Law) as the National IT Co-ordinator, as a member of National Communications Committee. It has been delegated (in part) from the IT Co-ordinator to the Membership Officer.</p> <p>This has not been the responsibility of the Secretary. It is the responsibility of the Membership Officer and has been so for many years.</p> <p>'when requested to do so'</p> <p>Pauline Hutton did make a complaint about email details and this was queried with Roger Howe and Darren Churchill by Robin Davis. It was pointed out that Josh Mitchell (as then Tasmania Division President) was the substantive vote-holder at the time and was to be included, not Pauline Hutton. I have emails from the longstanding Membership Officer and a copy of the relevant part of the membership list to support this.</p>

Document & reference	Comment
	<p data-bbox="533 256 683 282">'the solution'</p> <p data-bbox="533 304 1946 363">The subsequent individual emails and the fact that they were sent to Paulene Hutton or used by her to make email ballots on motions are not evidence to support the contention.</p> <p data-bbox="533 405 927 430">'All voting members were included'</p> <p data-bbox="533 477 1946 564">This is not correct. Members were excluded although to what extent is difficult to ascertain. Members did report receiving second-hand copies of material sourced from the Google groups email address and those ostensibly resigned suspended or expelled received no emails.</p> <p data-bbox="533 606 1099 632">'and their subsequent removal from the email lists'</p> <p data-bbox="533 678 1946 737">These same members did not receive notifying emails from the Google address about the suspension or expulsion proceedings against them.</p>
<p data-bbox="159 774 387 844">Page 5 Par 1 & 2 Annexures A,B & C</p>	<p data-bbox="533 774 1946 833">These emails were received by members of the NE and responded to as shown in the document. Please refer to our previous submission relating to the motions for this meeting.</p> <p data-bbox="533 850 1946 909">The NE list is comprehensive. Circulation to 'fellow voting members' by any other member was not authorised and on the face of it unnecessary as they had all received it as the document shows.</p> <p data-bbox="533 927 1946 986">The attachment does not support the contention. Roger Howe was acting in accordance within the Constitution as already submitted and the 'notice' is invalid.</p> <p data-bbox="533 1003 1946 1125">The National Executive meeting (teleconference) of 18th September had been rescheduled from 4th September by the National Secretary. Hayden Ostrom Brown's convening of a Special Meeting of the National Executive failed as it was inquorate. It was also invalid, because Clause 4.1 of the Standing Orders requiring the President or Secretary to convene meetings was not complied with; and because a Special Meeting on the 16th was unnecessary, as the NE had already been scheduled for the 18th.</p> <p data-bbox="533 1142 1946 1201">Haydon Ostrom Brown was never in a position entitled to convene a National Executive meeting. He was a Deputy National President, which was the lowest class of voting member on the National Executive.</p> <p data-bbox="533 1219 1946 1313">Motions were proposed last year by members, which were clearly out of order, however, the raisers of the motions were advised by Roger Howe that he would add an agenda item to discuss the issues raised, they could then raise an appropriate motion from the floor. I assisted and advised members on how to get their motions in front of NE, to say he refused to list valid motions is not correct. The</p>

Document & reference	Comment
<i>Page 5 Par 5</i> <i>Annexure A,B,C</i>	<p>motion to relegate voting 'whether members attend or not' to email as proposed by Hayden Ostrom-Brown is clearly out of order.</p> <p>'evidence that (NE Members) all participated in the debate'</p> <p>The document does not support the contention and no evidence is provided of other email interactions even if valid as noted above. No debate occurred. No motion of "no confidence" in Roger Howe, was or has ever been considered by the National Executive.</p>
<i>Page 6 Par 1</i> <i>Annexure D</i>	<p>'made the meeting inquorate'</p> <p>This is incorrect. Meetings must maintain quorum and this is made up of a particular count of the Presidential team and the Deputy Presidents. In addition, two members cannot by themselves make a meeting inquorate. Also the two mentioned left the meeting after more than 2 hours participation, hardly an action to usurp the meeting.</p>
<i>Page 8 Par 1</i>	<p>Missing evidence</p> <p>The Commission's request for evidence of meetings and other events that go to the running of the Party since the 18th of September 2012 and John Davey's response not to provide same are noted. Relevant material that in our view should be provided includes the minutes and other motions in line with the Constitution for actions that are known to have occurred including:</p> <ul style="list-style-type: none">• Authority to represent as an agent to the Bank and to ISP Providers with correctly framed minutes and directions from the purported National Executive.• Support and justification for withdrawal of \$22,000 from the bank account of the Australian Democrats on or about 26th of February 2013.• Controls over spending of those and other monies received as 'membership' fees including response to unpaid suppliers• Ratification of documents provided to banks• Ratification of documents provided to Internet Service Providers
<i>Page 8 Sub-Par marked '(iii)'</i>	<p>The argument that quorums are not required for email ballots does not hold. Email motions are subject to the same rules of validity as other meetings including that of having a quorum. The Constitution has not removed that requirement explicitly and the relevant legislation governing associations still applies. The term 'as if considered at a meeting' is not to be read as investing email ballots with all the attributes of a meeting. Similarly, the term cannot be read to allow non-compliance with all the formal requirements of a meeting detailed elsewhere in the Constitution and Standing Orders.</p>

Document & reference	Comment
Page 9 Annexure O	<p>'ignoring the requirement for face to face meetings'</p> <p>The last face-to-face National Executive meeting was on 28th January, 2012 in Melbourne. Whilst Minutes prior to January, 2008 are hard to trace; it is understood that at some point during 2006 or 2007, National Executive deemed teleconferences to be the equivalent of face-to-face meetings for reasons of cost. In Roger Howe's time as a member of the National Executive which is over 5 years, teleconferences were deemed to be face to face meetings. The minutes are not available to support this. However the constitution was set before teleconferences were possible. The precedent was set over a number of years. Formal meetings were practically arranged and had been a reasonably regular occurrence for the time I have been a member of the National Executive</p> <p>There was no face-to-face meeting in Brisbane. The faction's purported meeting was inquorate.</p> <p>The reference to quorum is important, as the quorum requirements of National Executive are not an absolute majority, but are outlined in the Constitution Cl 6.3 and must include at least half of the voting members provided at least three of the Presidential Team and at least three of the Divisional Presidents or their proxies are present. The legitimate "Chair" of National Executive was from 13th July to 7th August 2012, the National President, Brian Greig. From 7th August to 12th December 2012, the Senior Deputy National President (as locum tenens) Darren Churchill and from 12th December 2012 to present is National President, Darren Churchill.</p> <p>'Validly constituted meeting' and 'Appeal'</p> <p>There was no meeting. Standing Order 3 applies to validly constituted meetings. It is unclear what point is being made about Standing Order 3. At no time has Hayden Ostrom Brown lodged any appeal. Roger Howe and others have not been given the opportunity to 'appeal' not having received emails as noted above.</p> <p>The power to refuse motions that are not valid has already been addressed.</p> <p>Troy Anderson did point out that emailed consecutive discussions in lieu of meetings, were not desirable. It is difficult to see how such processes that do not require the concurrent attention or indeed any attention by 'attendees' if an email is not read or received for example could characterise a meeting. It is easy to see how such an abnegation of process could open formal decision processes to abuse. New technologies do not justify the departure from due process, as contemplated by the Constitution or the Standing Orders when the existing sections were included.</p> <p>Troy Anderson's report has been dealt with in the submission.</p>
Page 10 Annexure E Annexure G	<p>As already noted above and in the submission, the 'introduced' motions were invalid. The document is not a valid representation of the events of the meeting as already submitted</p> <p>'The Journal' and 'ballot'</p> <p>There is no evidence that the journal was distributed to all members by mail provided, although it was received by some. Others</p>

Document & reference	Comment
<i>Page 10 Par 4</i> <i>Annexure H</i>	<p>reported not receiving it.</p> <p>The purported National Journal November 2012 Volume 36, No. 2 ISSN 0183-3476 was not authorised by the National Communications Committee. It was a bogus journal containing much defamatory material against Darren Churchill and Roger Howe. It went to many, though not all, members of the Australian Democrats. Faction members had cobbled together a distribution list from factional members providing some states' distribution list and a lobby list provided by [REDACTED] - a lobby list provided on the undertaking it be used for lobbying by the candidate, and no other purpose. It would not have contained members of less than six months membership.</p> <p>The only valid National Journal for November, was November 2012 Vol. 36 No. 3 ISSN 08133476 (http://www.australian-democrats.org.au/journal/Journal201211.pdf) containing the legitimate ballot for National President, initiated on 7th August, 2012 following the resignation of Brian Greig.</p> <p>The purported December 2012, Australian Democrats National Journal, Volume 36, No.2 ISSN 0183-3476 was again an unauthorised publication. Evidence that it refers to an alleged "Sadly the recent Ratification Ballot was unable to be resolved and there for (sic) another ballot must be called to fill the position of National President" provides further proof that the purported journal was invalid. Again, the distribution list was dubious as outlined above. Indeed, the distribution list was by then almost a month older. The official, three-candidate ballot for National President was still being conducted and due to conclude on 12th December.</p>
<i>Page 11</i> <i>Annexures I-1&I-2</i>	<p>Ballot process</p> <p>The letters appear to have been sent rather than nomination being received and considered.</p> <p>A ballot does not seem to have been conducted from this information. Items I,ii and v do not seem to be included.</p> <p>In either case these appointments are invalid</p> <p>National Disputes Convenor</p> <p>Please refer to the submission.</p> <p>The email recipients list in this document is not an accurate representation of the membership Democrats National Executive.</p> <p>See above on status of Journal.</p> <p>It is not clear from either Annexure that votes were received or which people were sent notices.</p>
<i>Page 11</i>	Suspension and expulsion of Roger Howe

Document & reference	Comment
<i>Annexure J</i>	<p>The dates of the emails precede 18 September 2012.</p> <p>The document provides a list of votes in an email from Hayden Ostrom Brown. No email chain from those people is provided so amounts to an assertion. The content of the list 'ne-members@democrats.org.au has not been provided in the document or other annexures. There is also a vote claimed by [REDACTED] Josh Mitchell held the Tasmanian vote, [REDACTED] [REDACTED] claimed a proxy (although it was not received by the Secretary). Proxies only occur when a member is unable to attend a face-to-face or teleconference. Proxies do not apply to email, unless the substantive vote-holder already hold another voting position on National Executive.</p> <p>'on any assessment'</p> <p>This statement is refuted.</p>
<i>Page 12</i>	<p>Please refer to the notes on email motions above and in the submission.</p>
<i>Annexure D</i>	<p>Reference should also be made to Standing Order 40 which requires an absolute majority not a 'clear' majority. There was not an absolute majority or any majority shown in the annexures provided as evidence.</p> <p>Appeals</p> <p>The process was and is regarded as invalid not meriting an appeal. There are only grounds for appeal when challenging the incorrect actions of a legitimate governing body. Challenging the incorrect actions of an illegitimate body, can only be done by the legitimate governing body getting on with business.</p> <p>Section 6.8 (d) of National constitution states that officers are appointed for two-year terms. This does not suggest that they are mandated to be a maximum of two years. The appointments are renewable. Roger Howe was appointed on 2nd August 2011 (after having filled the position temporarily since 12th July 2011). His term will either end, or be renewed, at the first National Executive meeting after the election of the 2013/2014 National Executive.</p>
<i>Page 13</i>	Suspension
<i>Annexures K & G & L</i>	<p>It appears that seven votes are given in the email chain. The nature of the 'debate' is evident. Members did not consider the subsequent views of other members and their votes were lodged without the benefit of those comments. This raises the question as to whether the members could give an informed vote. It can also be seen that a number of members declined to vote on what they considered to be an invalid vote.</p> <p>Importantly, there is no absolute majority. The National Executive consists of 14 people.</p> <p>The 'voting outcome' consists of an email from one person making an assertion.</p>

Document & reference	Comment
Page 13 Annexure M	Darren Churchill See comments above on validity of Annexures D and G The votes shown are three votes and are not a valid 'voting outcome' for the same reasons as given for Roger Howe. No evidence has been provided of 'dis-endorsement'. No letter has been received in relation to any dis-endorsement by Darren Churchill. See submission.
Page 14 Annexure N	It is not clear that this motion was 'passed'. The document only shows an email sent. No responses are shown.
Page 14 Annexure O	Paul Morgan as Registered officer The document asserts 'proper notice' was provided and inserts the text of the notice. The email has not been produced. The initial motion to open nominations for all non-voting positions was dated 4/9/12 and was "carried" on 9/9/12, yet the National Constitution cl. 6.8(e) requires 14 days notice. Contrary to what is claimed, in this instance party processes have not taken their due course. Procedurally, any action resulting from the "passage" of the motion is therefore unconstitutional. Thus Paul Morgan does not validly hold the position of Registered Officer as the position was not vacant. The purported appointment of [REDACTED] etc. was invalid. The 'factional group' has attempted to conduct unauthorised National Executive business by email motions. This included an attempt to appoint officer positions in a secretive, invalid process, which deliberately excluded three voting members of the National Executive (Darren Churchill, Roger Howe and Trevor Jenner) and included some invalid proxies from Tasmania (not verified by the Secretary) and Queensland [REDACTED] as well as one person claiming to be a Deputy National President when he wasn't [REDACTED] [REDACTED] did not become a Deputy National President until after the re-election of Darren Churchill as National President, in December.
Page 15	The relevance of this is not clear. The Constitution is clear on the process for suspension and expulsion by NE which on the documents provided has not occurred. There is a process which allows National Executive to suspend or expel a member, and that process has not been followed by John Davey as presented in the letter or annexures. It and the discrepancies are as follows: <ul style="list-style-type: none">Under cl.8.4 of the National Constitution, NE lodges a dispute with the National Registrar. The party does not have a National

Document & reference	Comment
	<p>Registrar, so in the cases of Roger Howe and Darren Churchill it could not have happened.</p> <ul style="list-style-type: none">• Nor did the steps required of the National Registrar in clauses 8.7 - 8.10 occur. No due process was applied.• Clauses 8.11 - 8.14 have not been followed either. The National Disputes Committee Convenor, [REDACTED] was not even in place when action was taken against Darren Churchill, and prior to the appointment of [REDACTED] they did not recognise Brian Dickson. Cl 8.14 in particular says that the National Disputes Committee "shall operate on the principles of dispute resolution and natural justice". No due process occurred• .The National Disputes Convenor, having observed these important processes and principles then is required to provide a report to the National Executive in which suspension or even expulsion can be recommended. This did not occur.• Finally, under cl 8.18, the National Executive must consider and can act on the recommendations. That did not occur either. <p>There are no other ways constitutionally to suspend membership at the national level, (although the SA Division's constitution allows it for SA Division members).</p> <p>In terms of expulsion other than the step-by-step process described above, there are two other ways:</p> <ul style="list-style-type: none">• The first is under Cl. 4.2, that of the member who belongs to another political party. This has not occurred.• Under Cl. 4.4 a member can be expelled if they hold themselves out to be representing the party when they have not been chosen for that role. <p>Legal grounds for expulsion not supported by documents</p> <p>According to [REDACTED] 'chronology' this was the means by which Darren Churchill was 'expelled'.</p> <ul style="list-style-type: none">• Central to this method is reliance on the words in Cl. 4.4 "that they are not a duly endorsed candidate or has not been given prior authorisation by the party for that election, or in which the member (having previously been endorsed) has ceased to be endorsed or authorised at a time prior thereto".• Darren Churchill had been duly endorsed by the ACT Division to stand as a candidate in the October 2012 ACT elections.• On 25/9/12 the e-mail ballot as noted in the Annexures was apparently carried, in which membership is 'suspended'.• On 13/10/12 an e-mail ballot (numbered 2012.05.10 - 5. by the Davey NE) is carried that Darren Churchill be dis-endorsed as a candidate for the party.• This motion is unconstitutional.• Under the heading of "Endorsement", the National Constitution Cl. 11.2.15 states that "The Divisional governing body shall

Document & reference	Comment
	<p>have the authority to open nominations and set dates for the pre-selection process for all local and State elections covered by the Division". Cl. 11.2.18 states that "The Divisional Governing body has the responsibility to call for nominations and to set procedures for the endorsement process".</p> <ul style="list-style-type: none">• Darren Churchill was therefore a duly endorsed candidate for the ACT elections. Clauses 11.2.31 - 11.2.33 deal with the matter of the withdrawal of endorsement. The process set out in 11.2.33 allows the Divisional governing body to initiate withdrawal of endorsement. National Executive has no powers in this regard. No complaint was ever made by the National Executive to the ACT Division's Executive that might have set a process of re-assessment in motion. As noted below and in the submission on the 25th September the ACT Division's Exec resolved that Darren continued to be their endorsed candidates.• The chronology also claims that 20th October was the date Darren Churchill was deemed to have resigned under Cl. 4.4. Although the basis for that date is unclear when the first indication of their decision was an announcement via social media. No evidence of due process has been shown in the annexures or letter.

Further comments on suspensions/expulsions in reference to assertions made.

██████ resigned as National Communications Officer in July 2011. He did apply for reappointment but was declined due to telling National Executive what his job should be rather than as it is described in the Standing Orders (Clause 8 of Part 6).

Roger Howe was deliberately excluded from any knowledge of the purported appointment process, so was unable to challenge it initially. However, he did not nominate as part of that purported process because his position as National Secretary is still current and remains so until the first National Executive meeting after the election of the 2013/2014 National Executive. At that time, his term will either end, or be renewed.

Roger Howe has neither been suspended nor expelled from membership of the Australian Democrats. The letters from Membership Officer, Robin Davis confirm this fact.

Had the members chosen to attempt to suspend/expel Mr Howe, then once again following due process might have been preferred to the unconstitutional attempt, which was made. If the members had concerns about Mr Howe, he was never given the opportunity to address them to a validly constituted meeting.

Mr Howe never received advice of his alleged suspension. Mr Howe has never been advised of his alleged expulsion. Mr Howe remains a member of the Australian Democrats.

Darren Churchill has neither been suspended nor expelled nor resigned from membership of the Australian Democrats. The letters from Membership Officer, Robin Davis confirm this fact. As submitted, the ACT Division Executive expressed their support for Mr Churchill at their meeting of 25th September 2012.

There is no constitutional power to suspend someone on unsubstantiated charges, nor for National Executive to dis-endorse a validly

Document & reference	Comment
	<p>preselected candidate for a state/territory election. To do so is to act ultra vires. Only the state/territory Division has such power. If the members had concerns about Mr Churchill he was never given the opportunity to address them to a validly constituted meeting.</p> <p>The constitutional provision for interference in a Division's pre-selection process is only for Casual Senate Vacancies (under Clause 11.2.37 of the constitution).</p> <p>Darren Churchill never received advice of his alleged suspension. Darren Churchill remains a member of the Australian Democrats. Darren Churchill was not an Australian Democrats candidate. He was an Australian Democrats (ACT Division) candidate in a territory election.</p> <p>Darren Churchill was never advised of any alleged dis-endorsement, nor cautioned over any alleged continuation of referring to himself as an Australian Democrats/ACT Democrats candidate. Mr Churchill was never advised of any alleged "deemed resignation."</p> <p>The National President ballot which concluded on 12th December 2012 saw Mr Churchill win 73% of the vote; Mr Howe 18% of the vote and the candidate put up by the group represented by John Davey, Jason Heeris only 8% of the vote. The ballot was declared by then Returning Officer Deane Crabb on 19th December 2012.</p> <p>The eligibility to attend meetings is described in Clause 10 of Part 1 of the Standing Orders. The purported email motion (incorrectly conducted also) made no mention of a variation to the Standing Orders. The idea of non-member attendance invalidating a meeting is not correct.</p> <p>The purported "meeting" of 23rd February was invalid. It was not requested to be convened by either the National President or National Secretary. Therefore, even had Hayden Ostrom Brown not been suspended, he had no jurisdiction to convene such meeting.</p> <p>[REDACTED]</p> <p>[REDACTED] was suspended by National Executive on 31st January 2013:</p> <p><i>"Motion: That [REDACTED] membership be suspended for breaches of Section 4.8 (3) of the Constitution and Sections 40; 3; 11.1; and, 11.2 of the Standing Orders and that he must show just cause why he should not be expelled. Moved: Chris Ridings Seconded: David Collyer Carried unanimously."</i></p> <p><i>Reason: Charges relating to item 2</i></p> <p>[REDACTED]</p>

Document & reference	Comment
	<ul style="list-style-type: none">• February 2012 - did attempt the removal of the National President and National Secretary• March 2012 - did join with 9 others in an unauthorised submission to the Australian Electoral Commission (AEC), placing the party at risk of electoral deregistration;• May 2012 (or thereabouts)- did hijack the party's YouTube account and claim it for himself;• October 2012 - did hijack the majority of the party's social media (Facebooks and Twitters) and use them against elected office holders;• late July 2012 to present - has operated as a ringleader of a factional bloc attempting a hostile takeover of the Australian Democrats, using a series of invalid email motions, bloc voting, defamations and disruptive behaviour;• January 2013 - did attempt to fraudulently obtain signatory access to the Australian Democrats national bank account; <p>The original has been provided.</p>

Page 18

Annexures P

██████████ assumed the role of National Disputes Convenor by claiming that the existing National Disputes Convenor – Brian Dickson was not eligible as he was not a member. There is no rule to say that that position must be held by a member. When ██████████ was directed by National Executive to work as a disputes committee member working with Brian Dickson, he refused to communicate with Brian Dickson, instead issuing reports stating that he was the Convenor, also quoting a ██████████ as a member of the disputes committee. We have no evidence that ██████████ is a real person. He does not have a phone number and doesn't reply to email.

The inability to follow the party governance as per the constitution etc. was clearly stated many times, so invalidating the email motions, ballots, appointments and purported fictional meetings claiming to be the National Executive. Also false journals were issued without party authority.

The National Disputes convenor's role is to review process and decisions and verify that the process was duly followed, if not to present recommendations to the National Executive. ██████████ stated it was to rule on complaints, clearly he did not understand the role he mistakenly believed he was acting in.

There was no consent from National Executive to any appointment of ██████████ as Acting Disputes Convenor. Brian Dickson remains National Disputes Convenor.

Mr Churchill continued to explain why ██████████ appointment to purported Dispute's Convenor was not valid, on 3rd January 2013, Mr Churchill wrote to ██████████ See the email: "Re: Final Notice – Matter of Dispute."

Purported Queensland Disputes Convenor, ██████████ is not known in the party although there is a record of his membership. There is no evidence of a ballot or other purported form of appointment.

Document & reference	Comment
	<p>National Executive did acknowledge a "Report" from ██████ though not as Disputes Convenor. In the validly constituted meeting of 31st January, provided to the AEC on 6th February, 2013 National Executive noted in relation to the "Reports" recommendations (in accordance with Clause 8.18 of the National Constitution):</p> <p>"10.1 ██████ Report 1 2012(1) The report from ██████ was tabled. Motion: That the report be noted. Moved: Roger Howe Seconded: Chris Ridings Carried. Motion 10.11: Whilst National Executive accept that Julia Melland acted in good faith and accept the recommendation to re-ballot the whole National Executive, we find the report lacked full consideration of the actions of members who are since subject to disciplinary action. Motion 10.12: That National Executive accepts the Melland ballot result, as members voted in good faith. Motion 10.13: That National Executive calls for nominations for the 2013/14 National Executive Ballot.</p> <p>A Disputes report can only report findings and make recommendations to the National Executive. The National Executive's decision is final.</p> <p>██████ did not table either of his reports to the National Executive. The first was tabled to Davey and others as well as Messrs Howe and Churchill. The second was only provided to Davey and others.</p>
Page 20	The meeting of 31st January was validly constituted National Executive as declared on 20th July, 19th December 2013 and resultant countbacks from either of those two elections and the resignations of Jason Heeris and Tim Neal.
Annexure N	<p>It was deemed necessary after two attempts to convene valid meetings of the entire National Executive had been disrupted and interfered with by members of the faction, including those outside of National Executive.</p> <p>The meeting was held "in camera" in accordance with Clause 39 (b) of Part 1 of the Standing Orders. Members facing disciplinary charges were not invited due to the need to consider disciplinary action. However, they were given the opportunity to respond in writing and at the February National Executive meeting. The offer to respond was ignored by most with one or two responding abusively.</p> <p>The meeting was quorate, satisfying all requirements under Clause 6.3 of the National Constitution.</p>

Roger Howe 24 April 2013

Document & reference

Comment

Annexure N only shows a motion and one vote.

Donella Greer
A/g Director, Funding and Disclosure
AEC
Australian Electoral Commission
P O Box 6172
Kingston ACT 2604

West Block Offices
Queen Victoria Terrace
Parkes ACT 2600

By Hand

Dear Ms Greer

I refer to your correspondence of 8 April 2013.

As requested, I attach referenced comments on the evidence provided by Mr Davey.

These comments are made to assist the Delegate to make a determination as to whether the Party had changed its secretary and registered officer in accordance with the constitution.

I note as I have previously that the burden of proof lies upon the party wishing to make the change.

Thankyou again for your consideration of this matter. If you require any further information, please do not hesitate to contact me.

A large black rectangular redaction box covering the signature area.

Yours sincerely,

Roger Howe

