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9 October 2013

Mr Ed Killesteyn PSM
Electoral Commissioner
Australian Electoral Commission
PO Box 6172
KINGSTON ACT 2604

ed.killesteyn@aec.gov.au

Dear Mr Killesteyn

Senate Election Western Australia

We act for Senator Louise Pratt, who has referred to us your letter yesterday.

Our client makes the following submissions in relation to the appeals for a recount that have been received by you under section 278(2) of the *Commonwealth Electoral Act 1918*.

The AEC's Recount Policy relevantly provides:

3. Evaluating a request for a recount

3.1 The following guidelines must be observed in evaluating requests for a recount:

- A recount may take place where there are valid and specific grounds for supposing that it could change the result of the election in the division or State/Territory or where there are specific grounds for determining the need for a recount of specific ballot papers (eg. in response to specific allegations/incidents).
- A request for a recount which does not plead any valid and specific grounds should be refused. A request for a recount needs to identify specific ballot-papers and associated significant counting process errors or irregularities that could change the result of an election within a division.

...

3.5 As a general rule, the decision maker (EC, AEO or DRO as relevant) should not agree to any recount, the purpose of which was only ... because the candidate did not have scrutineers in attendance at a particular scrutiny.

In the present case, none of the other candidates has identified any "valid and specific grounds" for supposing that a recount could change the result of the election. More particularly, none of the other candidates has identified either:

- any "specific allegations/incidents", or

- any "specific ballot-papers and associated significant counting process errors or irregularities that could change the result of an election",

as required by clause 3.1 of the Recount Policy.

It appears from the letter to you from Senator Scott Ludlam dated 3 October 2013 that the reason he has requested a recount is because he did not have scrutineers present at the initial count.

Again, under clause 3.5 of the Recount Policy this is not a valid reason for agreeing to a recount.

In the absence of valid and specific grounds for requesting a recount, our client submits that you must reject the appeals.

Yours faithfully

[Signature redacted.]

Simon Millman
Practice Group Leader
SLATER & GORDON