

National Party of Australia – NSW

Possible Associated Entities

Background

The Funding and Disclosure Section conducted a review between Monday 29 May 2000 and Wednesday 7 June 2000 of the National Party of Australia – N.S.W (NPA – NSW). That review identified a number of bodies as possible entities of the NPA – NSW. These were:

- Green and Gold Foundation;
- Conserv (No 2092) Pty Ltd;
- Supporters Foundation;
- Natpar Pty Ltd;
- National Building Foundation; and the
- Ralph Hunt Trust.

The Party rejected the AEC claim on the basis that they did not control these bodies contending that the trustees had “absolute and uncontrolled” discretion in decision making in relation to the trusts and that the NPA - NSW did not have a legal basis to control the trusts directly or through the trustee companies. The trust deeds appear to substantiate this view and it would, therefore, be difficult to draw any inference from them of any nexus between these organisations and the Party. The matter was not pursued any further following staffing changes in the area. Detailed consideration of this was prompted following another review of the Party last year and questions raised in August last year by Australian Greens relating to the status of these companies listed in the annual returns lodged by the NPA – NSW.

From 1981 onwards a number of trust funds were set up to channel funds to the Party. Two trustee companies, Conserv (N0.1425) Pty Ltd (which a year later became Natpar Pty Ltd) and Conserv (N0.2092) Pty Ltd administer these trust funds.

Conserv (N0.1425) Pty Ltd, which was incorporated under the Companies Act on 11 December 1981 and changed its name to Natpar Pty Ltd on 29 July 1982, is the trustee company for The National Free Enterprise Foundation. This Foundation was established in the early 1980's to raise capital to purchase 393 Pitt Street Sydney, which sold later in the 1980's. The Foundation now invests money for fixed terms and remains as an active entity.

Conserv (N0.2092) Pty Ltd, which was incorporated under the Companies Act on 21 December 1992, is the trustee for the National Building Foundation, the Green and Gold Foundation and the Supporters Foundation. One of the Directors, Mr Ross Walter Dymock Forsyth, is also the Treasurer of the NPA - NSW. The purpose of the trusts is to hold the funds on behalf of the parent company and to disburse it to the beneficiaries. The beneficiaries are financial members of the NPA - NSW who are eighteen years of age and over.

The trustee is required to hold the funds for beneficiaries and if there are no beneficiaries then it has absolute discretion to pass it on to charitable bodies or organisations. There are provisions for funds to be paid to the chairman of the NPA - NSW.

Members of the Green and Gold Foundation, which was established on 31 July 1997, have each contributed \$500 per head to purchase Coles Myer shares for which they get the company's discount card. In return, the dividends due to the members as shareholders are passed onto the Foundation, which then disburses them. Only financial members of the NPA are entitled to this arrangement. The shares remain with Green and Gold Foundation. Dividends not claimed by the end of the financial year are treated as being donated by the beneficiaries to the NPA - NSW. We have not ascertained as to how many members actually claim this dividend.

The Supporters Foundation was set up on 21 December 1992 to receive donations from members and supporters but has received little income by way of donations. Details of these have neither been sought nor provided.

The National Building Foundation, which was established in August 1993, owns the strata title at level 5, 30 Carrington Street Sydney. This property is leased to the NPA - NSW at commercial rates. Profit from rental incomes is required to be distributed to the members of the NPA - NSW. Any surpluses resulting from members not claiming their shares is paid to the NPA - NSW, as unclaimed distributions as not many members claim this dividend.

In addition to the above, two other companies: Australian Country & Rural Party Services and Country First Pty Ltd were registered on 11 September 1996 and 9 March 1998 respectively, with Mr Ross Walter Dymock Forsyth as the sole director of both the companies. Their registered address is the same as that of the NPA - NSW, that is, Level 5, 30 Carrington Street, Sydney NSW 2000. Neither the companies nor the Party have been asked to provide annual returns on behalf of the two bodies.

Analysis

The *Commonwealth Electoral Act 1918*, (CEA) defines an associated entity as an entity that:

- “(a) is controlled by one or more registered political parties; or
- (b) operates wholly or to a significant extent for the benefit of one or more registered political parties”.

The attached table shows disclosure by the party in relation to these trusts, namely:

- Green and Gold Foundation;
- Conserv (No 2092) Pty Ltd;
- Supporters Foundation;
- Natpar Pty Ltd;
- National Building Foundation; and the
- National Free Enterprise Foundation.

(The cumulative total for debts may not reflect the true picture as debts are disclosed annually and repayments for the entire period not taken into consideration. Changes to the legislation in 1998 deleted the need for disclosure of payments and, therefore, it is not possible to indicate what loan amounts have been paid since these changes came into effect).

With effect from the 1998/99 financial year political parties and associated entities were no longer required to disclose payments, and therefore, it is not possible to verify repayment of amounts disclosed as loans. It would appear that the amounts disclosed prior to this period as receipts are also loans, as no donor returns have been lodged by these trusts.

The terms and conditions of the loans (which was only required to be disclosed from the 2000/2001 financial year) have not been provided. It is therefore not possible to establish if any interest is payable, and what the rate of the interest is. There is, however, some evidence to suggest that the loans have benefited the Party. Firstly, the trust funds are a ready source of cash, which has accrued over a period of time. Secondly, there is the possibility of inter-entity transfer of funds before a loan is granted to the Party by a particular trust.

The treasurer of the NPA – NSW, Mr Ross Walter Dymock Forsyth is one of the Directors of the Conserve (N2092) Pty Ltd. All powers of the trust are vested in the Trustees.

The trust deeds provide for all residual funds to flow to NPA - NSW in the event of the trust winding up. The operations of the trusts (and the companies) are almost entirely directly beneficial to the NPA - NSW by way of low interest/interest free loans and rent-free accommodation.

From the available evidence it appears that the trusts fall within the associated entity definition of the CEA.

Australian Country & Rural Party Services and Country First Pty Ltd would certainly fall within the definition of an associated entity because they are registered as companies belonging to the Party and need to each lodge a return even if there were no transactions conducted by them.

Recommendation

The entities should be asked to provide copies of their financial statements to enable the AEC to verify whether or not a significant portion of the funds is paid to the NPA - NSW.

Released under the Freedom of Information Act 1982