

Compliance Investigation Report

Coal Miners Industrial Union of Workers of WA Collie

2013–14 Annual Disclosure Return

August 2015



AEC

Australian Electoral Commission

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Purpose of this report

This report provides Mr Gary Wood, the financial controller of the associated entity the Coal Miners Industrial Union of Workers of WA Collie (the Entity), with the Australian Electoral Commission's (AEC) opinion as to whether the 2013–14 disclosure return he lodged for the Entity has complied obligations under s.314AEA of the *Commonwealth Electoral Act 1918* (the Act).

Associated entity

The 2013–14 annual disclosure return lodged by Mr Wood identifies the Entity as an associated entity of the following registered political party:

- Australian Labor Party (Western Australian Branch).

Disclosure obligations

Registered political parties and associated entities are required under the provisions of the Act to lodge annual disclosure returns.

Section 314AEA of the Act requires the financial controller of an associated entity to report after the end of each financial year:

- the total amount received by, or on behalf of, the entity
- the total amount paid by, or on behalf of, the entity
- the total outstanding amount of all debts incurred by or on behalf of, the entity.

Section 314AC of the Act also provides that if the sum of all amounts received by, or on behalf of, the Entity from a person or organisation during a financial year is more than the threshold, the return must include the particulars of that sum.

Section 314AE of the Act provides that if the sum of all outstanding debts incurred by, or on behalf of, the Entity to a person or an organisation during a financial year is more than the threshold, the return must include the particulars of that sum.

Extracts of the texts of these provisions of the Act are reproduced in *Attachment A* to this report.

Conduct of the investigation

The AEC has authority under s.316(2A) of the Act to review records and gather relevant information to assess whether these disclosure obligations have been met. Section 316(2A) requires the financial controller of an associated entity to produce the documents requested in a notice from the AEC within the period and in the manner specified in the notice.

As part of this process, the AEC issued one notice to Mr Wood under s.316(2A):

- the notice required the Entity to provide financial records and other documents in relation to its financial operations for 2013–14.

A copy of the notice issued under s.316(2A) of the Act is provided at *Attachment B*.

Scope of the investigation

The AEC's investigation was limited to those financial records and documents which were considered to be relevant to determine the completeness and accuracy of information reported in the Entity's 2013–14 disclosure return in accordance with the requirements of s.314AEA(5) and s.314AC of the Act - i.e. the particulars of all amounts received that were more than \$12 400.

The AEC does not have authority under Part XX of the Act to examine any other aspects of the financial operations of the Entity such as the existence or effectiveness of internal controls.

Stakeholder engagement

The AEC's general practice, prior to commencing an investigation, is for the AEC's Funding and Disclosure Branch to contact the relevant officer of the associated entity (or political party when investigating a political party) to discuss the scope of the investigation. This contact may, in some instances, involve face to face meetings.

Prior to commencement of this compliance investigation, staff of the AEC contacted Mr Wood by telephone to discuss the scope of the investigation process.

It is also the AEC's practice prior to finalising an investigation, to discuss with the relevant officer of the associated entity or political party, its opinion on compliance issues. Where there are any errors and omissions the AEC will discuss with the relevant officer how they might have occurred.

The objective of such discussions is to encourage the associated entity or political party to examine its internal processes and systems in order to improve the accuracy of future annual disclosure returns and thereby improve its compliance with Part XX of the Act.

The AEC's opinion

The Entity did not disclose any receipts of more than \$12 400 in its 2013–14 disclosure return. After examining the documents provided by Mr Wood for the investigation, the AEC did not identify any receipt of more than \$12 400 that required disclosure.

Conclusion

Based on the records examined, it is the AEC's opinion that Mr Wood has complied with the disclosure requirements under Part XX of the Act in that he provided the 2013–14 disclosure return for the Entity which accurately set out the information required to be disclosed by an associated entity under the provisions of ss.314AEA(5) and 314AC of the Act.

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Tim Courtney
A/g First Assistant Commissioner
Australian Electoral Commission

14th August 2015

Extracts from the *Commonwealth Electoral Act 1918*

314AA Interpretation

- (1) In this Division:
amount includes the value of a gift, loan or bequest.

314AEA Annual returns by associated entities

- (1) If an entity is an associated entity at any time during a financial year, the entity's financial controller must furnish a return to the Electoral Commission, in the approved form, within 16 weeks after the end of the financial year, setting out:
- the total amount received by, or on behalf of, the associated entity during the financial year, together with the details required by section 314AC; and
 - the total amount paid by, or on behalf of, the entity during the financial year; and
 - if the entity is an associated entity at the end of the financial year—the total outstanding amount, as at the end of the financial year, of all debts incurred by, or on behalf of, the entity, together with the details required by section 314AE.
- (2) Amounts received or paid at a time when the entity was not an associated entity are not to be counted for the purposes of paragraphs (1)(a) and (b).
- (3) If any amount required to be set out under paragraph (1)(b):
- was paid to or for the benefit of one or more registered political parties; and
 - was paid out of funds generated from capital of the associated entity;
- the return must also set out the following details about each person who contributed to that capital after the commencement of this section:
- the name and address of the person;
 - the total amount of the person's contributions to that capital, up to the end of the financial year.
- (4) Subsection (3) does not apply to contributions that have been set out in a previous return under this section.
- (5) Sections 314AC and 314AE apply for the purposes of paragraphs (1)(a), (b) and (c) of this section to a return for an associated entity in the same way as they apply for the purposes of paragraphs 314AB(2)(a), (b) and (c) to a return for a registered political party.

314AC Amounts received

- (1) If the sum of all amounts received by, or on behalf of, the party from a person or organisation during a financial year is more than \$10,000, the return must include the particulars of that sum.
- Note: The dollar amount mentioned in this subsection is indexed under section 321A.
- (2) In calculating the sum, an amount of \$10,000 or less need not be counted.
- Note: The dollar amount mentioned in this subsection is indexed under section 321A.
- (3) The particulars of the sum required to be furnished under subsection (1) are the amount of the sum and:
- if the sum was received from an unincorporated association, other than a registered industrial organisation:
 - the name of the association; and
 - the names and addresses of the members of the executive committee (however described) of the association; or
 - if the sum was purportedly paid out of a trust fund or out of the funds of a foundation:
 - the names and addresses of the trustees of the fund or of the foundation; and

- (ii) the title or other description of the trust fund, or the name of the foundation, as the case requires; or
- (ba) if the sum was received as a result of a loan—the information required to be kept under subsection 306A(3), or the name of the financial institution, as the case requires; or
- (c) in any other case—the name and address of the person or organisation.

314AE Outstanding amounts

- (1) If the sum of all outstanding debts incurred by, or on behalf of, the party to a person or an organisation during a financial year is more than \$10,000, the return must include the particulars of that sum.
Note: The dollar amount mentioned in this subsection is indexed under section 321A.
- (2) The particulars of a sum required to be furnished under subsection (1) are the amount of the sum and:
 - (a) if the sum was owed to an unincorporated association, other than a registered industrial organisation:
 - (i) the name of the association; and
 - (ii) the names and addresses of the members of the executive committee (however described) of the association; or
 - (b) if the sum was purportedly incurred as a debt to a trust fund or to a foundation:
 - (i) the names and addresses of the trustees of the fund or of the foundation; and
 - (ii) the title or other description of the trust fund, or the name of the foundation, as the case requires; or
 - (c) in any other case—the name and address of the person or organisation.

316 Investigation etc.

- (1) In this section:

authorised officer means a person authorised by the Electoral Commission under subsection (2).

prescribed person means a person whose name is included in a list in a report mentioned in subsection 17(2A).
- (2) The Electoral Commission may, by instrument in writing signed by the Electoral Commissioner on behalf of the Electoral Commission, authorize a person or a person included in a class of persons to perform duties under this section.
- (2A) An authorised officer may, for the purpose of finding out whether a prescribed person, the financial controller of an associated entity or the agent of a registered political party has complied with this Part, by notice served personally or by post on:
 - (a) the agent or any officer of the political party; or
 - (aa) the financial controller of the associated entity or any officer of the associated entity; or
 - (b) the prescribed person or, if the prescribed person is a body corporate, any of its officers; as the case may be, require the agent, financial controller, person or officer:
 - (c) to produce, within the period and in the manner specified in the notice, the documents or other things referred to in the notice; or
 - (d) to appear, at a time and place specified in the notice, before the authorised officer to give evidence, either orally or in writing, and to produce the documents or other things referred to in the notice.

COMMONWEALTH ELECTORAL ACT 1918 – SECTION 316(2A)**NOTICE TO PRODUCE DOCUMENTS
DISCLOSURE RETURN 2013–14**

To: Mr Gary Wood
Secretary
Coal Miners Industrial Union of Workers of WA Collie
75 Throssell Street
COLLIE WA 6225

I, Seema Srivastava, an authorised officer within the meaning of s.316 of the *Commonwealth Electoral Act 1918* (the Act), for the purpose of finding out whether you, as the financial controller of the Coal Miners Industrial Union of Workers of WA Collie (the Entity), have complied with Part XX of the Act, hereby require you, pursuant to s.316(2A) of the Act, to produce the information referred to below within the period and in the manner specified in this notice.

Information to be produced in relation to Financial Year ending 30 June 2014

1. Reports from the Entity's accounting system in electronic format listed in Attachment A. (Attachment A to this notice lists the reports, the file format required and instructions on how to download and provide the data).
2. Statements of all bank / financial institutions accounts including:
 - any investment accounts;
 - loan accounts; and
 - broker accounts, if applicablefor the period from 1 July 2013 to 31 July 2014 (i.e. **13 Months**).
3. Bank reconciliation statements for:
 - each account as at 30 June 2013; and
 - each account as at 30 June 2014.
4. The working documents clearly demonstrating how the final total receipts, total payments and total debts figures shown on the Entity's 2013–14 annual disclosure return were derived.
5. A completed and signed *Document Checklist* provided at Attachment B.

Timing and manner of production

You are required to produce the documents referred to in this notice to:

Attention: Warren Kelly
Compliance Section
Funding and Disclosure Branch
Australian Electoral Commission
50 Marcus Clarke Street
CANBERRA ACT 2600

by no later than 5:00pm Tuesday 16 June 2015.

Refusal or failure to comply with this notice

It is an offence for you to refuse or fail to comply with this notice to the fullest extent capable—s.316(5) and (5A). It is also an offence to supply false or misleading evidence in purported compliance with this notice—s.316(6).

Dated: 19 May 2015

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Seema Srivastava
Assistant Commissioner
Funding and Disclosure Branch

An authorised officer for the purposes of section 316 of the Act.

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Attachment A

TECHNICAL SPECIFICATION FOR COMPUTER DATA – QUICKBOOKS

You informed us that the Entity used QuickBooks as its financial accounting management system for the 2013–14 financial year.

The steps below provide guidance on how to prepare the data in electronic format recommend the preferred delivery method.

Step 1: Required reports from the accounting system

1. Trial Balance Report (as at 30 June 2014)
(This report is required to list the account number, account name, the applicable balance amounts for all active and inactive accounts and sub-accounts, including those with nil balances).
2. General Ledger Bank [Detail] (for the period 1 July 2013–30 June 2014)
3. Bank Deposit Slip (for the period 1 July 2013–30 June 2014)

Step 2: Extract reports

For extraction from the QUICKBOOKS system the above reports must be set to cover the period for 1 July 2013–30 June 2014 ensuring that no other range limits are applied to these reports and no other editing is performed on the data.

Where the accounting system provides an option of producing reports with or without account numbers ensure that all reports are set to include account numbers.

Important: Before extracting reports from the accounting system, please ensure that all fields, especially the particulars/memo/description field, are sufficiently expanded to display the full content of those fields.

The key steps to extract each of the above reports:

- a. Open the report
- b. Restrict to the financial year 2013–14
- c. From the **Export** menu select a **new Excel workbook**
- d. Encrypt the data. This is an optional step but strongly recommended by AEC. If you do not have your own encryption software:
 - save the reports in a location of your choice prior to encrypting the data (e.g. your local desktop)
 - open encryption procedure manual at <http://www.aec.gov.au/encryption>
 - follow the instructions in the encryption document which provides details of how to save, encrypt, burn and password protect* the data

- e. Copy the data to CD-ROM or DVD
(We do not recommend copying the data to USB sticks/thumb drives or attaching it to email since these media are less secure)
- f. Please ensure the password/pass-phrase used to encrypt the data is NOT transported with the CD/DVD.

At the time of despatch please email the password to us at: fad@aec.gov.au
Alternatively, we will contact you to obtain the password once the data has been received.

Step 3: Deliver the data

To ensure the secure delivery of the data, it is recommended that the data is either:

- delivered by 'safe hands' courier; or
- posted via *Registered Mail*.

AEC's postal address

or

AEC's physical address

Compliance Section
Funding and Disclosure Branch
Australian Electoral Commission
PO Box 6172
KINGSTON ACT 2604

50 Marcus Clarke Street
CANBERRA ACT 2600

Enquiries: for further assistance please contact Warren Kelly on (02) 6271 4416 or by email at fad@aec.gov.au.

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REDACTION CODES

- 1 Personal Information (name) redacted.
- 2 Personal Information (date of birth) redacted.
- 3 Personal Information (photograph) redacted
- 4 Personal Information (facsimile of signature) redacted.
- 5 Personal Information (facsimile of manuscript initialling) redacted.
- 6 Personal Information (Individual's address) redacted.
- 7 Personal Information (individual's telephone number) redacted.
- 8 Personal Information (individual's opinion) redacted.
- 9 Personal Information (opinion about individual) redacted.
- 10 Personal Information (employment history) redacted.
- 11 Personal Information (qualifications) redacted.
- 12 Personal Information (health) redacted.
- 13 Business information (Bank Account details) redacted.
- 14 Business information (Billing Account details) redacted.
- 15 Legal Professional Communication redacted.
- 16 Deliberative material redacted.
- 17 Irrelevant material redacted.

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