

Compliance Investigation Report

CEPU Plumbing Division Victoria

2013–14 Annual Disclosure Return

November 2015



AEC

Australian Electoral Commission

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Released under the Freedom of Information Act 1982

Purpose of this report

This report provides Mr Junha Jang, the financial controller of the associated entity the CEPU Plumbing Division Victoria (the Entity), with the Australian Electoral Commission's (the AEC) opinion as to whether the 2013–14 annual disclosure return he lodged for the Entity complied with the obligations under Part XX, Division 5A of the *Commonwealth Electoral Act 1918* (the Act).

Associated entity

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

- Australian Labor Party (Victorian Branch).

Disclosure obligations

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

Under Part XX, Division 5A of the Act, s.314AEA applies to annual returns by associated entities and 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.

Subsection 314AEA(5) of the Act provides for ss.314AC and 314AE to apply to a return lodged by an associated entity in the same way as they apply to a return for a registered political party.

Section 314AC of the Act 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. The threshold for the financial year 2013–14 was \$12 400.

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 B* 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 Jang under s.316(2A):

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

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

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 annual disclosure return in accordance with the requirements of ss.314AEA, 314AC and 314AE of the Act.

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 to contact the relevant officer of the associated entity 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 Jang by telephone to discuss the scope of the investigation process. During that conversation, Mr Jang acknowledged that he had inadvertently misinterpreted certain requirements of the Act. At his request, an officer of the AEC met with Mr Jang during June 2015 to discuss and clarify any misconceptions that he may have held about the reporting requirements of the Act.

It is also the AEC's practice prior to finalising an investigation, to discuss with the relevant officer of the associated entity 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 to examine its internal processes and systems in order to improve the accuracy of future annual disclosure returns and thereby improve compliance with Part XX of the Act.

Draft Report

On 12 November 2015 the AEC provided Mr Jang with a draft of the report for his consideration and comment. Mr Jang was asked to provide his comments by 24 November 2015. Mr Jang telephoned the AEC on 16 November 2015 advising that he would submit the required amendment to the Entity's annual disclosure return. No comment was made by Mr Jang on the content of the draft report.

The AEC's opinion

After examining the financial records and other documentation provided by Mr Jang for the investigation, the AEC identified the issues detailed below relevant to compliance with disclosure obligations under Part XX of the Act.

Timely lodgement

The 2013–14 annual disclosure return for the Entity was lodged with the AEC on 11 August 2014. As lodgement occurred prior to the due date of 20 October 2014, Mr Jang has complied with the requirement under s.314AEA(1) to lodge a return for an associated entity within 16 weeks after the end of the financial year.

Accuracy in reporting – amendment required

Total Receipts, Payments and Debts

Subsections 314AEA(1)(a) and 314AEA(1)(b) of the Act requires the entity's financial controller to report the total amount received and paid by, or on behalf of, the entity during the financial year. Subsection 314AEA(1)(c) requires the entity's financial controller to report the total outstanding amount as at the end of the financial year of all debts incurred by, or on behalf of, the entity.

The AEC identified discrepancies in the figures reported for *Total Receipts*, *Total Payments* and *Total Debts* in the Entity's 2013–14 annual disclosure return. Mr Jang acknowledged that he had reported figures based on the Entity's financial period of April 2013–March 2014 and not for the financial year 1 July 2013 – 30 June 2014 as required by the Act.

Mr Jang agreed that the individual amounts reported for *Total Receipts*, *Total Payments* and *Total Debts* should be amended as set out in the table below.

Required Amendment			
Total Receipts, Payments and Debts Parts 2a, Part 4 and Part 5	Receipts	Payments	Debts
Amount disclosed in the Entity's 2013–14 annual disclosure return	\$7 253 585	\$6 328 466	\$984 393
Required amended amount	\$8 410 742	\$7 387 440	\$855 681

Receipts of more than \$12 400

Section 314AC of the Act 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. For the 2013–14 financial year the threshold was for sums in excess of \$12 400.

The AEC identified discrepancies in the particulars reported for *Amounts of more than \$12 400* in the Entity's 2013–14 annual disclosure with the financial records provided for the investigation. Mr Jang advised that he thought that this requirement related only to the receipt of donations and as the Entity had not received any donations no particulars were reported. The AEC determined that 13 receipts required disclosure, even though, as Mr Jang advised, they were not classed as being a donation.

Mr Jang agreed that the particulars reported for *Amounts of more than \$12 400 received* should be amended to disclose particulars of the 13 receipts as set out in *Attachment A – Table 1*.

Debts of more than \$12 400

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.

The Entity's 2013–14 disclosure return reported the particulars of two individual debts, each being more than \$12 400, totalling \$431 515. The AEC determined that both individually disclosed amounts required amendment as the amounts were based on the debt as at 31 March 2014, and not, as required by the Act, the debt balance as at 30 June 2014.

The AEC determined that an additional six identified individual debts, each of more than \$12 400, totalling \$468 571 required disclosure. Mr Jang advised that he thought that this requirement related to long-term debts only and therefore he did not disclose any outstanding trade creditor debts of more than \$12 400.

Mr Jang agreed that the particulars reported for *Debts of more than \$12 400 as at 30 June 2014* should be amended to disclose particulars of the eight debts as set out in *Attachment A – Table 2*.

Conclusion

Based on the records examined, the AEC is of the opinion that the 2013–14 annual disclosure return for the Entity lodged with the AEC on 11 August 2014 complied with the requirement under s.314AEA(1) of the Act to lodge a return for an associated entity within 16 weeks after the end of the financial year.

However, in view of the discrepancies identified and the subsequent requirement to lodge an amendment to rectify those discrepancies, the 2013–14 annual disclosure return lodged for the Entity on 11 August 2014 did not comply with the provisions of s.314AEA of the Act.

In view of the subsequent lodgement of the amendment to the Entity's 2013–14 annual disclosure return by Mr Jang on 17 November 2015, the AEC is now of the opinion that the disclosure return (as amended) now accurately sets out the information required to be disclosed by an associated entity under the provisions of ss.314AEA(5), 314AC and 314AE of the Act.

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Tim Courtney
A/g First Assistant Commissioner
Australian Electoral Commission

27th November 2015

Table 1: Amendment particulars – Receipts of more than \$12 400

Required amendment – Part 3: Amounts of more than \$12 400 received		
Received from	Address	Amount
Total Claims Solutions	Level 1, 151 Rathdowne Street Carlton VIC 3053	28 395
Plumbing Joint Training Fund	6/306 Albert Street, Brunswick VIC 3056	1 535 131
ICM Partnership Pty Ltd	PO Box 1060, Mt Waverley VIC 3149	44 870
AJ Barley Pty Ltd	168 Carlisle Street, St Kilda VIC 3182	24 589
CBA RMIT Branch	360 Swanston Street, Melbourne VIC 3000	15 225
Sargeants Port Phillip	Level 7, 3 Bowen Crescent, Melbourne VIC 3004	663 373
Boone & Willard	Unit 13/5 Meridian Pl, Baulkham Hills NSW 2153	12 926
DEEWR Victoria	PO Box 9879, Melbourne VIC 3001	15 000
Trio Plumbing	13 Dib Court, Tullamarine VIC 3043	12 765
Cooke Dowsett	25 McGregors Drive, Keilor Park VIC 3042	12 799
P J M Engineering	10 Aristoc Road, Glen Waverley VIC 3150	18 628
Incolink	1 Pelham Street, Carlton VIC 3053	463 320
Department of Planning & Community Development	GPO Box 2991, Melbourne VIC 3001	112 692
Total		\$2 959 713

Table 2: Amendment particulars – Debts of more than \$12 400

Required amendment – Part 6: Debts of more than \$12 400 as at 30 June 2014			
Creditor	Address	Amount Disclosed	Amended Amount
CEPU Plumbing Division Federal Branch	52 Victoria Street Carlton VIC 3053	349 188	240 974
ME Bank	GPO Box 1345 Melbourne VIC 3001	82 327	80 355
American Express	PO Box 5087 Sydney NSW 2001	0	13 339
ATO	Locked Bag 8086 Kingsgrove NSW 2208	0	236 435
Cbus	Locked Bag 999 Carlton VIC 3053	0	33 896
CEPU Communication Division	PO Box 472 Carlton VIC 3053	0	35 271
Commerce Press	17 Flight Drive Tullamarine VIC 3043	0	20 626
State Revenue Office	GPO Box 1641 Melbourne VIC 3001	0	129 004
Total		\$431 515	\$789 900

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
 - 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.

Notice to produce documents

COMMONWEALTH ELECTORAL ACT 1918 – SECTION 316(2A)

NOTICE TO PRODUCE DOCUMENTS DISCLOSURE RETURN 2013–14

To: Mr Junha Jang
Finance Manager
CEPU Plumbing Division Victoria
52 Victoria Street
CARLTON SOUTH VIC 3053

I, Tim Courtney, 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 CEPU Plumbing Division Victoria (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. The working documents clearly demonstrating how the individually disclosed receipt figure/s (amounts above the threshold of \$12,400) shown in Part 3 of the Entity's 2013–14 annual disclosure return were derived.
3. Any other document or record forming part of the Entity's accounting records not covered in Attachment A but which was used in the compilation of Part 3 of the disclosure return. Wherever possible these documents and records are to be provided in electronic format.
4. 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
PO Box 6172
KINGSTON ACT 2604

by no later than **5:00pm Friday, 28 August 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: 24th July 2015

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As
Tim Courtney
First Assistant Commissioner
Australian Electoral Commission

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

Attachment A

TECHNICAL SPECIFICATION FOR COMPUTER DATA – MYOB

Your office informed us that the Entity uses MYOB accounting system to record all its financial transactions and that information extracted from that system will be produced in Microsoft Excel electronic format.

The steps below provide you with guidance on how to prepare and provide the data.

Step 1: Required reports from the accounting system

- a. Trial Balance Summary (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).
- b. General Ledger [Detail] for all bank accounts (for the period 1 July 2013–30 June 2014)
- c. Bank Deposit Slip for all amounts above \$12,400
(This report is required to list details of the account number, date, amount and particulars of all cash and cheque receipts deposited into each bank account for deposits greater than \$12,400 for the period from 1 July 2013 to 30 June 2014).

Step 2: Extract reports

Important: Before extracting reports from the accounting system, please ensure that all fields, in particular the memo/description field in the General Ledger [Detail] report, are sufficiently expanded to display the full content of those fields.

For extraction from the MYOB system the above reports must be set to cover the period from 1 July 2013 to 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.

The key steps to extract each of the above reports:

- a. Open the report
- b. Restrict to the financial year 2013–14
- c. From **Send to** menu select format **Simple Text File** and from the **Save as Type** menu select **Text Files (*.TXT)**
- d. Encrypt the data. This is an optional step, but strongly recommended by AEC.
- e. 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

- f. 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)

*Please ensure the password/pass-phrase used to encrypt the data is NOT transported with the CD ROM/DVD. At the time of despatch you should 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*.

<u>AEC's postal address</u>	or	<u>AEC's physical address</u>
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.

Released under the Freedom of Information Act 1982