

# Compliance Review Report

ALP Holdings Pty Ltd as Trustee

of the ALP Investment Trust

2013–14 Annual Disclosure Return

March 2016



**AEC**

Australian Electoral Commission

## Contents

Purpose of this report .....	2
Associated entity .....	2
Disclosure obligations .....	2
Conduct of the review .....	2
Scope of the review .....	3
Stakeholder engagement .....	3
The AEC's opinion.....	3
1. Timely lodgement .....	3
2. Accuracy and completeness .....	3
Conclusion .....	4
Attachment A .....	6
Extracts from the <i>Commonwealth Electoral Act 1918</i> .....	6
Attachment B .....	8
Notice issued under s.316(2A) of the Act.....	8

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## Purpose of this report

This report provides the financial controller of the associated entity ALP Holdings Pty Ltd as Trustee of the ALP Investment Trust (the Entity), with the Australian Electoral Commission's (the AEC) opinion as to whether the 2013–14 annual disclosure return lodged on behalf of the Entity has complied with obligations required of the *Commonwealth Electoral Act 1918* (the Act).

## Associated entity

The Entity's 2013–14 annual disclosure return identifies it as an associated entity of the Australian Labor Party (South Australian Branch).

## Disclosure obligations

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

Under Part XX of the Act, s.314AEA applies to annual disclosure 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 associated entity from a person or organisation during a financial year is more than the disclosure threshold amount, 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 associated entity to a person or an organisation during a financial year is more than the disclosure threshold amount, the return must include the particulars of that sum.

The disclosure threshold amount for the 2013–14 financial year was \$12 400.

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

## Conduct of the review

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. Subsection 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 under s.316(2A) of the Act to the Entity's financial controller that required financial records and other documents in relation to the Entity's financial operations for the year 2013–14 to be provided to the AEC.

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

## Scope of the review

The AEC's review 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(5), 314AC and 314AE of the Act - i.e. the particulars of all amounts received and outstanding debts that were more than \$12 400.

The AEC does not have authority under Part XX of the Act to examine 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 a compliance review, is for the AEC to contact the relevant officer of the associated entity to discuss the scope of the review. This contact may, in some instances, involve face to face meetings.

Prior to commencement of this compliance review, staff of the AEC contacted the financial controller of the Entity by telephone to discuss the scope of the review process.

It is also the AEC's practice prior to finalising a compliance review, 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.

## The AEC's opinion

After examining the documents provided for the review, the AEC identified several issues relevant to compliance with disclosure obligations under ss.314AEA, 314AC and 314AE of the Act. The issues are detailed below.

### 1. Timely lodgement

The 2013–14 disclosure return for the Entity was lodged with the AEC on 18 September 2014. As lodgement occurred by the due date of 20 October 2014, it 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.

### 2. Accuracy and completeness

#### Amounts of more than \$12 400 received

Subsections 314AEA(5) and 314AC(1) of the Act require that if the sum of all amounts received by, or on behalf of, the associated entity from a person or organisation during a financial year is more than the disclosure threshold amount, details of that sum must be disclosed.

Subsections 314AEA(5) and 314AC(2) of the Act provide that when calculating the sum, individual amounts received from the same source, that are less than the disclosure threshold amount, need not be counted.



The 2013–14 annual disclosure return for the Entity reported the particulars of one individual receipt for \$66 000 received from the Australian Labor Party (South Australian Branch). No other receipts for more than the disclosure threshold amount were identified during the review.

The AEC determined that the reported amount of \$66 000 comprised the sum of 10 individual receipt amounts of \$5 500 each and a further receipt of \$11 000. As each of the receipts were less than the threshold amount of \$12 400, the receipt for \$66 000 did not require disclosure.

#### Total Debts and Debts of more than \$12 400

In response to a query by the AEC concerning the outstanding debts reported, the financial controller of the Entity advised that a procedural error was identified whereby debts were recorded incorrectly. The AEC was advised that new corrective procedures were now in place to ensure future compliance with the Act.

To correct the details reported in the Entity's 2013–14 disclosure return, an amendment was lodged with the AEC to amend the amounts and particulars reported for *Total Debts* and *Debts of more than \$12 400* as set out below.

#### Amendment received by the AEC

##### Part 5: Total Debts as at 30 June 2014

Previous total debts	\$1 024 853
Amended total debts	\$1 277 087

##### Part 6: Debts of more than \$12 400 as at 30 June 2014

Name	Address	Previous Amount	Amended Amount
Commonwealth Bank of Australia	91 King William Street Adelaide SA 5000	\$150 369	\$ 149,430
Australian Labor Party South Australian Branch	141 Gilles Street Adelaide SA 5000	\$849 631	\$1 127 657
Australian Labor Party South Australian Branch	141 Gilles Street Adelaide SA 5000	\$ 24 853	\$ 0

The AEC observed that the information recorded in the Entity's *Balance Sheet* for 30 June 2014 supported the amended amounts of debt reported for the Commonwealth Bank of Australia and the Australian Labor Party (South Australian Branch).

## 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 18 September 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.

In view of the subsequent lodgement of the amendment to the Entity's 2013-14 disclosure return on 8 March 2016, the AEC is of the opinion that the Entity's disclosure return (as amended) now accurately sets out the information required to be disclosed by an associated entity under the provisions of ss.314AEA, 314AC and 314AE the Act.

4

Tim Courtney  
A/g First Assistant Commissioner  
Australian Electoral Commission

18<sup>th</sup> March 2016

Released under the Freedom of Information Act 1982

## 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.



## Notice issued under s.316(2A) of the Act

### COMMONWEALTH ELECTORAL ACT 1918 – SECTION 316(2A)

#### NOTICE TO PRODUCE DOCUMENTS DISCLOSURE RETURN 2013–14

**To:** Mr Reggie Brian Martin  
Secretary  
ALP Holding Pty Ltd as Trustee of the ALP Investment Trust  
141 Giles Street  
ADELAIDE SA 5000

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 secretary of ALP Holding Pty Ltd as Trustee of the ALP Investment Trust, 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 ended 30 June 2014

1. Please provide us with the documents *in the specified format* listed in *Attachment A* of this notice.
2. 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: Mr Salman Siddiqui  
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, 30<sup>th</sup> July 2015

4

Tim Courtney  
A/g First Assistant Commissioner  
Australian Electoral Commission

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

**TECHNICAL SPECIFICATION FOR ACCOUNTING DATA – Manual Ledger and MYOB-Desktop**

Your office informed us that the Associated entity uses manual ledger and MYOB-Desktop accounting system for the year ended 30 June 2014 to record all its financial transactions. The following steps provide you with guidance on how to prepare and provide the data.

**Step 1: Required reports (on cash basis where possible) from your accounting records and MYOB-Desktop accounting system:**

- a. trial Balance Summary (Including all zero balances and account numbers)
- b. detailed transaction ledgers of all the bank accounts (Including all zero balances and account numbers)
- c. statements of all bank/financial institution accounts, including any investment accounts and broker accounts
- d. bank reconciliation statements for each account as at 30 June of the financial year under review and 30 June of the previous year
- e. a list of all gifts-in-kind received during the financial year including their valuation
- f. the working documents used in collating the disclosure return clearly demonstrating how the disclosed total receipts, total payments and total debt figures were derived.

**Step 2: Reporting period**

For detailed transaction ledgers of the bank accounts, the report should cover the period from **30 June 2013 to 1 July 2014**.

For the remainder, restrict the period to between **1 July 2013 and 30 June 2014**.

**Step 3: Extract reports**

*Important: Before extracting reports from the accounting system, where possible, please ensure that the reports are produced on cash basis and all fields, in particular the memo/description field are sufficiently expanded to display the full content of those fields.*

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. For detailed transaction ledgers of the bank accounts. Choose the reporting period from **30 June 2013 to 1 July 2014**.
- c. For all the other reports. Restrict the reporting period to between **1 July 2013 and 30 June 2014**.

- d. Export and save the reports to one of the following file formats and extensions:
  - i. comma delimited (*filename\*.csv*) for CSV files
  - ii. excel (*filename\*.xls*) for MS Excel (1997 to 2003) files
  - iii. excel (*filename\*.xlsx*) for MS Excel (open XLM) files.
- e. Encrypt the data. This is an optional step, but strongly recommended by AEC. If you do not have your own encryption software:
  - i. save the reports in a location of your choice prior to encrypting the data (e.g. your local desktop)
  - ii. 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 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](mailto:fad@aec.gov.au). Alternatively, we will contact you to obtain the password once the data has been received.*

#### Step 4: Deliver the data

To ensure the secure delivery of the data, it is recommended that the data is posted via *Registered Mail* to the AEC's postal address below:

Attention: Mr Salman Siddiqui  
Compliance Section  
Funding and Disclosure Branch  
Australian Electoral Commission  
PO Box 6172  
KINGSTON ACT 2604

**Enquiries:** For further assistance please do not hesitate to contact Mr Salman Siddiqui, Senior Compliance Officer by telephone on (02) 6271 4426 or by email at [fad@aec.gov.au](mailto:fad@aec.gov.au).

## 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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