Kecleved Iron Dr Thompson 27/8/09

Joint Standing Committee on Electoral Matters

2009 Local Government Elections (Inquiry)

I appreciate the opportunity to appear before this committee on the conduct of the 2008 local government elections in NSW. Since three of us are appearing in a 30 minutes' session I would like to submit a more complete written presentation of my concerns. I respectfully request the committee officially accept this paper.

There are three matters on which I would like to focus.

- 1) The failure of many candidates and teams of candidates to submit details of their donations received and campaign expenditures.
- 2) The consequences of the failure to identify donors in the course of decision making process of council
- 3) Gifts in kind of office facilities during election campaigns are now banned in NSW. Yet, the forms for reporting electoral expenditure do not require information on payment for office space. This needs to be changed.

Failure of candidates and groups to submit details of donations and expenditure

Many candidates and groups of candidates submitted nil returns to the NSW Election Funding Authority for the period between 1 July 2008 and 31 December during which the local government election was held. This was especially true of Liberal Party groups and Liberal candidates.

The Greens Democracy4Sale research team has checked many of the Liberal groups in NSW and only found nil returns from all inspected. It appears all Liberal donations were funnelled through the Liberal Party head office, and all campaign expenses were paid by the Party's head office.

This practice leads to a total lack of transparency of the source of contributions in each council the Liberal Party ran candidates, as well as no transparency on the expenditure of these candidates. While the practice may be legal, I believe it denies the public crucial information to which they are entitled.

Since I have researched all the City of Sydney council returns since the 1999 election and know this LGA best, I will use the 2008 campaign in Sydney Council to illustrate the problems involved. However, the issue also is of concern in many other LGAs in NSW.

The Labor and Greens campaign teams not only submitted detailed reports of their campaign donations and expenditures to the NSW Election Funding Authority (NSW EFA), but they also informed the public during the campaign of their sources of contributions. To their credit, they identified all sources of money over \$200. Labor did this by allowing people to ring the campaign manager for the information over the telephone. The Greens disclosed the information on a web site.

Clover Moore said her party would report the donations they received prior to the election (Frew, 2008). In spite of her frequent statements urging transparency in the sources of money for political parties her party didn't disclose their donations before the election.

Shayne Mallard as the 2008 Lord Mayoral and lead candidate for the City of Sydney and the Liberal Party group running in the election submitted nil returns to the NSW EFA for the period 1 July 2008 and 31 December 2008.

However, it appears the Sydney Liberal group did receive contributions. In an email sent to a number of people and me (as a member of the Darlinghurst Residents Action Group and 2011 Residents Association). Cr Mallard reported that "our friends" have donated drinks and food at Giovanni's at the Toxteth Hotel in Glebe (see attachment 1). He also stated that three members of his team had raised "much needed funds" at a fundraiser at the Zilver restaurant in September 2008.

I have searched returns a sample of donor forms from the approximately 2000 submitted to the NSW EFA and some donors claim to have contributed to various Liberal Party local government campaigns for the 2008 election.

The lobbyist and public relations firm John Connolly & Partners contributed \$1,000 on 12/9/08 to "The 100 Friends of Shane (sic) Mallard Sydney Liberal Action Committee" (see attachment 2).

All donations of \$1,000 and above should be reported to the NSW EFA, yet, the Sydney Liberal group did not report this donation. It may have been reported to the NSW EFA by the NSW Liberal Party but this is unclear.

John O'Sullivan of Credit Suisse is a generous financial supporter of the NSW Liberal Party (see attachment 3). During the 2008 local government election he contributed \$200 to the Liberal Sydney Campaign, \$200 to the Woollahra Liberal group and \$695 to the Waverley Liberal Local Government Conference.

Mr O'Sullivan is scrupulous in reporting his donations to the NSW EFA, but it appears the NSW Liberal Party did not aggregate all of his donations as required and report the total to the Authority.

None of Mr O'Sullivan's donations to the local government campaigns would have been identified if the Liberal council campaigns had submitted the required forms to the NSW EFA, However, if all small donations were reported as required, we would have a better picture of the funds available to the Liberal groups.

Let me emphasise I am not criticising Shayne Mallard and his Liberal team. I know and respect Cr Mallard. The City of Sydney is only an example of the Liberal Party practice of local government campaigns submitting nil returns. From a letter Cr Mallard sent to the NSW EFA is appears that this practice is Liberal Party policy (see attachment 4).

When the head quarters of the Liberal Party did disclose the money from a donor who gave to a local government campaign, the party did not specify that it went to that campaign. This means the public does not know who is bankrolling their local Liberal candidates/councillors.

Even if our research team had the resources to go through all 2000 donors' forms for the period 1/7/08 through 31/12/08, we would not discover all the money given to local government Liberal campaigns. From my work on this project over the past seven years, I know that when donors do submit the required forms most only indicate the party to which the money is given and not to which part of the party it goes. For example, it is only a small portion of donors to the NSW Liberal Party that specify which portions of their donations went to the Millennium Forum, the Wentworth Forum, Sydney Liberal campaign, and so on.

Consequences of Failure to Adequately Disclosure

When donations are funnelled through a political party's head quarter it is clear there is no transparency of the source of money for that party's local government candidates. Such lack of transparency just feeds into the public's disillusionment in our political system.

There is a second problem with this lack of transparency. The codes of conduct the Department of Local Government requires all councils to adopt calls for councillors to declare a significant non pecuniary conflict of interest then absent themselves from debate and vote if they have received more than \$1,000 donation from the interested party under consideration by council.

If council officials and the public do not know who donated to the councillors' campaign, how can the code of conduct be enforced? Only by the good will of the councillors involved it would appear.

Yet, there are instances when councillors do not follow this code of conduct. For example, Clover Moore apparently breached the City of Sydney's code of conduct in November 2007 by participating in a decision to buy property from a large political donor (Knox, 2008).

On 3 November 2007, the City of Sydney decided to buy a building in Redfern from Peter Holmes a Court for approximately \$3 million. Mr Holmes a Court had donated almost \$7,000 to Ms Moore's campaign for the seat of Sydney in the 2007 NSW election.

Ms Moore declared her conflict of interest. However, she chaired the meeting at which debate on the matter took place. The vote on the decision to buy the property was carried unanimously by voice vote alone.

In this instance, the public could discover the donation from Mr Holmes a Court to Ms Moore. But if the money had gone to a councillor belonging to a political group that had not disclosed the donation we would never know about the breaching of the code of conduct.

Gifts of Kind of Campaign Office Space

During the 2008 NSW Parliamentary inquiry into electoral funding Lord Mayor of Sydney Clover Moore was asked a number of questions about a gift in kind of her campaign office for the Sydney Council election in 2004.

Ms Moore had been given the use of a large two story terrace house with garage on Harris Street in the commercial area of Pyrmont. She had the use of this house during for four weeks during the campaign and a week after the campaign ended.

Ms Moore declared the total value of this gift in kind to be \$950, meaning the donor did not have to be identified. While Ms Moore stated that the property was worth \$190 a week, a real estate agent in the same block of Harris Street said the value of the gift was at least \$600 a week - \$3,000 for the five week period.

In the 2008 amendments to the NSW electoral funding law gifts of kind of campaign office space were banned. However, there is no place on the returns made by candidates or groups to indicate how much they spent on campaign office accommodation. Also, an official of the NSW EFA told me this week that receipts for expenditure on office space are not required.

Therefore, when groups have large offices during a local government campaign, we have no information to ascertain if commercial rates were paid for that space. I believe such information should be required in future election campaigns.

Summary

The Greens recommendation on page six of the submission should be implemented – The disclosure of local campaign and expenses by political parties of their candidates should be prohibited. All disclosures should be made at the candidate or candidate group level, with only genuine state-wide party wide and expenses such as metropolitan newspaper or television advertising disclosed in the party financial declaration to the Election Funding Authority.

However, I believe that only closes one loophole. From past experience we know that when one loophole is closed some political parties find other ways around the rules.

I believe the best answer is total reform of the election funding system such as the one proposed by the NSW Greens for a number of years:

1. Ban all donations from corporations, unions and other groups.

- 2. Allow individual donations that are subject to an annual cap. This cap would apply to the amount an individual could spend on her or his own political campaign.
- 3. Cap election expenditure.
- 4. Allow donations only from citizens or permanent residents of Australia.

References

Frew, W. Moore votes down donations disclosure, <u>Sydney Morning Herald</u>, 6 August 2008.

Knox, M. Moore's donor vote broke the council code, <u>Sydney Morning Herald</u>, 1 December 2008, p 3

Again I thank the committee for allowing me to appear before it. Since there is only limited time to address the issues I have raised in my paper, I also respectfully request that the committee officially accept this paper and the appendices I have attached.

Dr Norman L Thompson

MI Thompson

----- Original Message -----

Subject: Campaign - End of week update - Last week to Go.
Date: Fri, 5 Sep 2008 16:46:41 +1000 From: "Shayne Mallard" To:



Good afternoon team

Last weekend of street stalls tomorrow. I hope the weather clears but try and get out there with (blue) umbrellas. Andrew and I will be circulating amongst the street stalls from 10 to 1pm. We will have the new brochure and new corflute signs to distribute.

Who is calling into to Giovanni's drinks for volunteers tonight 6pm to 7pm at Toxteth Hotel Glebe (Cnr Wigram & Glebe Point Rd)? Our friends there have donated drinks and finger food so be good if we can get together. I will bring brochures and new corflutes as well.

Congratulations to Edward, Rebecca and Georgina for a great fundraiser at Zilver this week. Much needed funds and fun.

120,000 'Positive Leadership' brochures have been delivered by Australia Post this week — with great feedback.

200 corflute signs are going up poles across the area this weekend.

70 new A frames have been delivered for polling day (Hon Charlie Lynn MLC helped Andrew and I unload the truck as he was walking past selling legacy badges!).

We have advertisements in most local papers next week.

This weekend is the launch of the 'Regaining Sydney's Business Confidence' policy - watch for it on the web site on Sunday. After Meredith's disastrous announcement of a new tax on developments today's (see SMH and AFR) the scene is well set for our last week pro business approach.

Who is taking time off in the week coming to assist with the campaigning? I know Stephen Peoples has taken Wednesday onwards off and Jesper all week – **THANKS guys**.

We need people for:

<!--[if !supportLists]-->• <!--[endif]-->Train stops

<!--[if !supportLists]-->• <!--[endif]-->Bus stops

<!--[if !supportLists]-->• <!--[endif]-->Light rail stops

<!--[if !supportLists]-->• <!--[endif]-->Footpath handouts

<!--[if !supportLists]-->• <!--[endif]-->Doorknocking

<!--[if !supportLists]-->• <!--[endif]-->Letterboxing

It has been a pretty good week. Clover has been looking very tired and grumpy at all the meetings. We have rattled her big time on issues like generation change and some unusual activities around the Hillsong Development in Roseberry.

Thanks again for all your work.

To help out email

Regards

Shayne

Councillor Shayne Mallard

City of Sydney

Town Hall, 483 George Street, Sydney NSW 2000

ph: fax:

Shayne's Blog: www.eCouncillor.blogspot.com

Shayne's Web: www.shaynemallard.com

City of Sydney: www.cityofsydney.nsw.gov.au

Declaration of Political Donations and Electoral Expenditure by a Political Donor (EF.680)



The information on this form is collected under the provisions of the Election Funding and Disclosures Act 1981 and will be made publicly available.

This declaration <u>must</u> be completed and signed by the person who made the political donations or who incurred the electoral expenditure (or by an authorised person in the case of an entity e.g. Company Secretary of a corporation, Trustee of a trust, Public officer of an unincorporated association, Secretary of an organisation etc).

This declaration must be lodged with the Election Funding Authority between 1 January 2009 and 25 February 2009. Refer to the Funding and Disclosure Guide for Political Donors when completing this declaration.				
Name of political donor				
Write the full name of the person or entity who made politica	donations or who	incurred electoral	expenditure:	
John Comally + Par	Iners.	Ptyl	<i>A</i> d	
Address and Australian Business Number (ABN) of pol	litical donor	0		
In the case of a donor who is an individual, write the full resid		e donor. In the car	se of a donor which is an entity, write	
the registered official address of the donor. Political donors (•	
Address: CPO Box 500	5			
Suburb Sydney NE	<i>M</i>			
State: NSW Postcode: 2001 ABN	I (only for entities):	50 05	36 165 827	
Political donor contact details	. <u>-</u>	•		
Daytime Phone: 02 92321033	Email address:	ldc@jcp	· Com·00	
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If the political donor lodged a declaration following the 2007 NSW state election you are not required do not re-disclose any donations or expenditure already disclosed in the previous declaration.				
Declaration				
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person from the above named political donor which is an enti	ty, declare that no r	eportable political	donations were received or made by	
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than the expenditure specified in this declaration was incurred during the disclosure period.				
Signature of political donor or authorised person:	ma a		////Date:	
n the case of declarations lodged on behalf of an entity, in wh	at capacity are you	completing and si	gning this declaration (e.g. Company	
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Office Use Only John Connolly and Partners Pty File No:	Document No.:	00044	Return this declaration to:	
Received: 2 4 FEB 2009 Received by:	U	23211	Election Funding Authority NSW GPO Box 832 Sydney NSW 2001 Fax: 02 9290 5991	

PART A: Reportable political donations made by the donor

Did the political donor make any reportable political donations to a NSW political party, a state or local government candidate or group, a local government councillor or a Member of NSW Parliament during the disclosure period? Yes / No

Reportable political donations include donations of \$1,000 or more each or multiple donations of less than \$1,000 made to the same political party, councillor, member of Parliament, candidate or group of candidates during a financial year that, when aggregated, total \$1,000 or more.

Reportable political donations include:

- Donations of money made to or for a NSW political party, a state or local government candidate or group, a local government councillor or a Member of NSW Parliament,
- Donations of a gift or service at no charge or at a charge less than the value of the gift or service made to a NSW political party,
 a state or local government candidate or group, a local government councillor or a Member of NSW Parliament, and
- The purchase of a ticket or other item for a fundraising event or function held by a NSW political party, a state or local government candidate or group, a local government councillor or a Member of NSW Parliament.

If yes, write the date each reportable political donation was made, the name of the political party, candidate, group of candidates, local government councillor or Member of Parliament to whom the donation was made and the amount or value of the donation.

Date of donation	Name of political party, candidate, group, councillor or Member of Parliament to whom the donation was made	Amount or value of the donation \$
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PART B: Electoral expenditure incurred by the donor

Did the political donor incur any electoral expenditure during the disclosure period? Yes / No

Electoral expenditure is any expenditure that has the purpose of promoting or opposing a NSW political party, a candidate or a group of candidates or has the purpose of influencing the vote at an election.

Electoral expenditure includes but is not limited to:

- · Television, radio, internet and cinema advertising
- · Newspaper and magazine advertising
- Printing of electoral material including brochures, t-shirts, balloons, how-to-votes, posters etc
- · Distributing electoral material
- · Election campaign research
- · Expenditure incurred in raising funds for an election campaign

If yes, write the total amount of electoral expenditure incurred by the political donor next to each of the categories below.

Broadcasting electoral advertisements on radio, TV, or cinema (include all associated production costs)	\$
Publishing electoral advertisements in newspapers, periodicals or magazines (include all associated production costs)	\$
Printing electoral advertising on billboards, posters, brochures, how to vote material or any other printed material (include all associated production costs)	\$
Holding election rallies	\$
Distribution of election material	\$
Travel and /or accommodation of a candidate	\$
Stationery, telephone, postage	\$
Costs incurred in raising funds for an election	\$
Other (provide details)	\$

PART C: Reportable political donations received by the donor

Did the political donor receive any reportable political donations of \$1,000 or more during the disclosure period that were used or were intended to be used in whole or in part by the political donor to make political donations or to incur electoral expenditure (this includes multiple donations of less than \$1,000 from the same source during a financial year? Yes / No

If yes, write the date each political donation was received by the political donor, the name and address of each person or entity that made a donation to the political donor and the amount or value of each donation made to the donor.

Date donation was made to the political donor	Name and address of the person or entity	Amount or value of donation \$
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If more space is required please attach additional list in the same format.

Election Funding Authority of NSW - 1st April 07 to 31st December 2008

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Declaration of Political Donations and Electoral Expenditure by a Political Donor (EF.680)



The information on this form is collected under the provisions of the *Election Funding and Disclosures Act* 1981 and will be made publicly available.

This declaration <u>must</u> be completed and signed by the person who made the political donations or who incurred the electoral expenditure (or by an authorised person in the case of an entity e.g. Company Secretary of a corporation, Trustee of a trust, Public officer of an unincorporated association, Secretary of an organisation etc).

This declaration <u>must</u> be lodged with the Election Funding Authority between 1 January 2009 and 25 February 2009. Refer to the *Funding and Disclosure Guide for Political Donors* when completing this declaration.

Name of political donor			•	•
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0 UAN 2009				1 87. 02 3230 0001

PART B: Electoral expenditure incurred by the donor

Did the political donor incur any electoral expenditure during the disclosure period?

Electoral expenditure is any expenditure that has the purpose of promoting or opposing a NSW political party, a candidate or a group of candidates or has the purpose of influencing the vote at an election.

Electoral expenditure includes but is not limited to:

- Television, radio, internet and cinema advertising
- · Newspaper and magazine advertising
- · Printing of electoral material including brochures, t-shirts, balloons, how-to-votes, posters etc
- Distributing electoral material
- · Election campaign research
- · Expenditure incurred in raising funds for an election campaign

If yes, write the total amount of electoral expenditure incurred by the political donor next to each of the categories below.

Broadcasting electoral advertisements on radio, TV, or cinema (include all associated production costs)	\$
Publishing electoral advertisements in newspapers, periodicals or magazines (include all associated production costs)	\$
Printing electoral advertising on billboards, posters, brochures, how to vote material or any other printed material (include all associated production costs)	\$
Holding election rallies	\$
Distribution of election material	\$
Travel and /or accommodation of a candidate	\$
Stationery, telephone, postage	\$
Costs incurred in raising funds for an election	\$
Other (provide details)	\$

PART C: Reportable political donations received by the donor

Did the political donor receive any reportable political donations of \$1,000 or more during the disclosure period that were used or were intended to be used in whole or in part by the political donor to make political donations or to incur electoral expenditure (this includes multiple donations of less than \$1,000 from the same source during a financial year?

If yes, write the date each political donation was received by the political donor, the name and address of each person or entity that made a donation to the political donor and the amount or value of each donation made to the donor.

Date donation was made to the political donor	Name and address of the person or entity	Amount or value of donation \$	
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If more space is required please attach additional list in the same format.

PART A: Reportable political donations made by the donor

Did the political donor make any reportable political donations to a NSW political party, a state or local government candidate or group, a local government councillor or a Member of NSW Parliament during the disclosure period?

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Reportable political donations include:

- Donations of money made to or for a NSW political party, a state or local government candidate or group, a local government councillor or a Member of NSW Parliament,
- Donations of a gift or service at no charge or at a charge less than the value of the gift or service made to a NSW political
 party, a state or local government candidate or group, a local government councillor or a Member of NSW Parliament, and
- The purchase of a ticket or other item for a fundraising event or function held by a NSW political party, a state or local government candidate or group, a local government councillor or a Member of NSW Parliament.

If yes, write the date each reportable political donation was made, the name of the political party, candidate, group of candidates, local government councillor or Member of Parliament to whom the donation was made and the amount or value of the donation.

Date of donation	Name of political party, candidate, group, councillor or Member of Parliament to whom the donation was made	Amount or value of the donation \$
FOR DON	ATIONS BETWEEN 22 APRIL 2003	and 23 APRI
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3/9/08	LIBERAL PARTY, WENTWORTH FORUM	11,000.00
5/11/08	" BELLEVUE MILL BODNEH	100.00
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18/6/07	LIBERAL PARTY, WENTWOETH FEC	5,000.00
/ / H	zf te	70.00
10/8/07	" HUNTER HILL BRANCH	200.00
17/8/07	" WENTWORTH FORUM	11,000.00
23/5/08	W w W II	2,500.00
30/8/07	" 140 WILLIAM ST SYDNEY	500.00
28/12/07	or - WARRINGAH FORUM	500.00
6/2/08	" VAUCLUSE SEC	200.00
6/5/08	te 4 %	150.00
8/7/08	" " WANDRIEY LGG	195.00
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29/1/08	" SYDNEY CAMPAIGN	200.00
14/8/08	" WOOLLAMRA LGC	200.00
3/9/08	" SENATOR PAYNE	100.00

If more space is required attach an additional list in the same format

Shayne Mallard

From:

Shavne Mallard

Sent:

Monday, 16 March 2009 4:48 PM

To: Cc:

Snavne Mallard

Sublect:

Election Funding Return issue

Importance:

High

Attachments:

Document.pdf



Document.pdf (1 MB)

Mr Brain Decelise Acting Director Election Funding Authority NSW

Dear Brian

Re Election Funding return and City of Sydney Liberal Group

I am writing to clarify correspondence from your officers to Liberal party endorsed candidates (including myself) who ran on a 'group' ticket for the 13 September local government elections. The letter to each candidate states that they have not appointed an Official agent' and therefore their 'nill' returns signed by Mr Scott Quine are invalid and a new return must be submitted. This is very confusing for the candidates and I as their team leader as we went through the process to appoint Mr Quine as an official agent. The paperwork for same is attached and you will note that Mr Quine was appointed on 13 September and that I spoke to Zena in your office conforming receipt at 1120am. In providing our nil returns to your office we have of course completed a group return submitted to the Liberal party as a party entity that includes all donations etc as required and I am aware that this has been incorporated into the NSW Liberal return for the period.

Could you please clarify this situation as soon as practical?

Sincerely

Shayne Mallard

Councillor Shayne Mallard City of Sydney Town Hall House, Level 3, 456 Kent Street (cnr Druitt), Sydney NSW 2000

Shavne's Web: www.SydneyLiberals.org.au

Shayne's Blog: www.eCouncillor.blogspot.com City of Sydney: www.cityofsydney.nsw.gov.au

----Original Message---

From:

Sent: Monday, 16 March 2009 5:40 PM

To: Shayne Mallard

ATTN: BRIAN DECEUSE

6 RAGES INC.