

INQUIRY INTO ELECTORAL AND POLITICAL PARTY FUNDING

Organisation:

Name: Mr James Ryan

Telephone:

Date received: 29/02/2008

SUBMISSION TO THE NSW PARLIAMENTARY INQUIRY ON POLITICAL DONATIONS.

The Director
Select Committee on Electoral & Political Party Funding
Legislative Council
Parliament House
Macquarie Street
SYDNEY 2000
Email: fundinginquiry@parliament.nsw.gov.au

FROM:

James Ryan, Councillor, Cessnock City Council

22/2/08

Dear Sir

Thankyou for the opportunity of making a submission to this inquiry.

In brief I believe that political donations inevitably create a sense of obligation to the donor by the recipient.

I wish to briefly out line for the Inquiry my experience as a Councillor in Cessnock;

- In Cessnock the ALP Councillors use of the 'State Electoral Committee' to make a donation of \$25,000 to their campaign effectively masked the identity of the original donors of that \$25,000 to their 2004 Local Government campaign.
- Probably by mistake, but happily for the public, the Secretary of the Cessnock SEC listed the donors of the \$25,000 in a third party return to the SEO.
- By chance I was able to view that documentation at the SEO and subsequently ask questions in Council as to why the ALP Councillors were not declaring non-pecuniary conflicts of interest when voting on certain matters.
- The Cessnock ALP Councillors have refused to acknowledge they know anything about the donations or that they have any responsibility to make declarations regarding these donations.
- I referred this to the Geneal Manager as breach of the Local Government Code of Conduct. After 5 months of doing nothing the Cessnock General Manager refused to take any action via the Code (even though the Code says perceived conflicts must be treated as importantly as real conflicts).

- I have referred the issue to the Ombudsman who has in turn referred the matter to the Department of Local Government in November 2007.
- The Department of Local Government has not contacted me.

I have to conclude;

a) that the NSW laws regarding declarations of campaign donations are not effective in ensuring the identity of donors is declared, and

b) that the current Code of Conduct for Councillors in NSW is not being enforced or observed and Councillors are regularly voting on matters without making a transparent declaration regarding campaign donations received, and

c) that the NSW Government has no real motivation to ensure campaign donations are declared in a way which ensures they are public knowledge BEFORE an election and BEFORE Councillors vote on certain matters.

d) Reform of the campaign donations system will not be effective while ever the donations can be masked by or channeled through another entity such as a SEC or any other body. If campaign donations are to remain legal they should only be acceptable from the primary donor.

e) If donations are to remain legal then the Name, telephone number, physical address and occupation/s of the donor need to be publicly available. In Cessnock individuals with PO Box addresses in Melbourne and Sydney made donations. This simply arouses suspicion as to who these people are and what is their interest in Cessnock.

I have attached further material below to illustrate the above conclusion.

Thank you

James Ryan

Councillor, Cessnock City Council

ISSUE: Cessnock Councillors voting to rezone land for high fee charging private school associated with ABC Learning (the land was previously meant for community use) without declaring donations from people associated with the property development company (HEZ P/L). The land is so severely undermined that consultants warned that public safety in the schoolyard needed to be considered.

- Please find attached a copy of the Cessnock ALP Councillors primary electoral return which shows a lump sum donation of \$25,000 for the SEC in a total of approx. \$27,000.
- My understanding is that the NSW Electoral laws allow a donation from an SEC without disclosing the original donors. This is clearly flawed system. The Third Party return from Cessnock SEC Secretary Karen Jurd was probably, in my opinion, a mistake. My understanding is the great majority of donations from SECs do not detail who made donations to the SEC in the first place.
- The third Party Declaration was only available to me because I visited the SEO office and asked to see the file. That is not something the average resident of Cessnock would have time or knowledge to do.
- As can be seen the names on the third Party Return include Richard Ash and Max Mahwinney.
- Richard Ash is described in a Westpac Media Release as *Westpac Institutional Bank Joint Head of Property* and gave his address on the declaration as 255 Elizabeth St Sydney, the address of the property section of Westpac. Westpac is described as an equity partner in the HEZ by the HEZ P/L webpage.
- Max Mawhinney is described on the Valad ASX statement regarding their investment in HEZ as being *Executive Director at Valad*.
- Both of these individuals have confirmed their donations to the Sydney Morning Herald. Attachment 3.

The above is a concrete example of people associated with property development making donations to an ALP State Electoral Committee for the purpose of donating to the Councillors election campaign. If it weren't for a 'mistake' by the SEC Secretary this information would still not be known to the public with the result being secrecy and a lack of transparency regarding campaign donations to local Councillors.

**DECLARATION OF POLITICAL CONTRIBUTIONS RECEIVED
 TO BE COMPLETED IN RESPECT OF A GROUP**

For the period that commences on

Council: CESS NOCK CITY	Group: LABOR	Candidates: FOR NAMES PLEASE SEE ATTACHED LETTER
Wards A B C-D		

**POLITICAL CONTRIBUTIONS OF THE PRESCRIBED AMOUNT OF \$1000 OR LESS
 BY MONETARY RANGE AND NUMBER**

Monetary range \$	Number of contributions	Total \$
0 - 250	1	200
250.01 - 500		
500.01 - 750		
750.01 - 1000	1	1000
Transfer this Total to "TOTAL AMOUNT OF POLITICAL CONTRIBUTIONS OF THE PRESCRIBED AMOUNT OR LESS" on summary page		TOTAL 1200 ✓

POLITICAL CONTRIBUTIONS OF MORE THAN THE PRESCRIBED AMOUNT OF \$1000

Contributors of more than \$1,500 are required to lodge a separate declaration as a third party.

A declaration form should be handed to the contributor for completion and lodgement with the Authority.

Date Contribution Received	Name & Address of Contributor	Amount or value of contribution by class of contributor		
		Person \$	Unincorporated Organisation \$	Corporation \$
16-02-04	CESSNOCK STATE ELECTORAL COMMITTEE C/- K STARD 5 FOURTH ST WESTON		25,000	
20-3-04	DONALDSON COAL PT LTD LOT 92 FOUR MILE CREEK RD ASHTON FIELDS			1500
Transfer these totals to "TOTAL AMOUNT OF POLITICAL CONTRIBUTIONS OF MORE THAN THE PRESCRIBED AMOUNT" on summary page		TOTAL	25,000	1500

THIRD PARTY DECLARATION

DECLARATION OF ELECTORAL EXPENDITURE INCURRED AND POLITICAL CONTRIBUTIONS RECEIVED BY A PERSON, BODY OR ORGANISATION

LOCAL GOVERNMENT ELECTION: 27 MARCH 2004
DISCLOSURE PERIOD: 11 OCTOBER 1999 - 26 APRIL 2004

Under the provisions of the Election Funding Act 1981 a person, body or organisation (other than a party or candidate) incurring more than \$1500 in electoral expenditure related to the abovementioned election during the disclosure period is required to lodge a declaration of political contributions received and electoral expenditure incurred with the Election Funding Authority.

This declaration must be lodged not later than the LODGEMENT DATE: 26 JULY 2004

ELECTORAL EXPENDITURE

For the purposes of the Act electoral expenditure includes donation of money and also comprises expenditure on:

- * any form of electoral advertising including the distribution thereof
- * holding of election rallies
- * travel and accommodation of a candidate
- * research
- * funding raising functions
- * stationery, postage and telephone

POLITICAL CONTRIBUTIONS

The political contributions to be disclosed are gifts totalling \$1000 or more received the whole or part of which was used to incur electoral expenditure or to reimburse the person, body or organisation for incurring that expenditure.

Two or more gifts made during the disclosure period by the same person, body or organisation is taken to be one gift. Corporations that are taken to be related to each other for the purposes of the Corporations Law are to be regarded as a single corporation.

DECLARATION

I declare that to the best of my knowledge and belief the information provided in this declaration is true, complete and accurate

K. Jurd

25/11/04

Hon. Secretary

Signature

Date

Capacity/Position

The proper signatory to a declaration lodged by the following organisations is:-

- * an unregistered political party - the party secretary
- * an unincorporated association - a member of the managing body
- * a company - the company secretary, managing director or other appropriate officer
- * an industrial organisation - the secretary
- * an incorporated association - the public officer or a member of the managing body
- * a trust - a trustee

Full Name Karen Jurd

Postal Address 5 Fourth Street WESTON

Phone number for business hours contact 0249587111 Fax

DECLARATION FURNISHED ON BEHALF OF Cessnock CES

(Name & address of unregistered political party, body corporate, unincorporated association, trust, registered industrial organisation - if appropriate)

As Above

A MAXIMUM PENALTY OF \$11,000 MAY BE IMPOSED FOR FAILING TO LODGE A
DECLARATION BY THE LODGEMENT DATE OR FOR KNOWINGLY MAKING A
FALSE OR MISLEADING STATEMENT IN A DECLARATION

PART B

PART B of the form need only be completed where you received amounts totalling \$1000 or more from a person or organisation during the period 11 OCTOBER 1999 to 26 APRIL 2004 and that amount was used for the purpose of making the gift or donation set out in PART A.

DETAILS OF GIFTS OR DONATIONS RECEIVED BY YOU

In relation to each gift of \$1000 or more received during the disclosure period and used to incur electoral expenditure* totalling \$1500 or more please list below the following details:

- ❖ the date the gift was made
- ❖ the name and address of the donor
- ❖ if the gift was other than money a brief description of the gift
- ❖ the amount or value of the gift

* Including gifts or donations made as set out in Part A

DATE GIFT MADE OR SERVICE PROVIDED	NAME AND ADDRESS OF PERSON, BODY OR ORGANISATION MAKING GIFT	BRIEF DESCRIPTION OF GIFT IF OTHER THAN MONEY	AMOUNT OR VALUE OF GIFT \$
Nov/Dec 04	Paul Murphy High Street Maitland		2,000
	Barnie Collins 412 King St Newcastle		1,000
	Richard Ash 255 Elizabeth St Sydney		2,000
	Felicity Thomson PO Box 392 Rutherford		4,000
	Patrick Wilde Maidens Brush Rd Wyoming		2,000
	Brian McGuigan Broke Rd Pokolbin		2,000
	Bernie Cooper PO Box 7364 Melbourne		2,000
	Tim Ford 1 Murray Street Pyrmont		2,000
	Richard Creighton PO Box 1748 Neutral Bay		2,000
	Max Mawinney PO Box 807 Ryde		2,000
	James Kirby 7/35 Alexander St Hunters Hill		2,000
	Alan Crane 4/2 Bligh Street Sydney		2,000

EFA USE ONLY

Date Received: 30/11/09 Signature:

File:

Land rezoned, but developers' gift was not declared

Anna Patty
Education Editor

NONE of the Labor councillors on Cessnock City Council who voted in favour of rezoning land for a private school associated with ABC Learning Centres declared donations from two men linked to the development.

Last month the council's eight Labor councillors, including the mayor, voted in favour of rezoning community land to allow for a private school to be built in nearby Kurri Kurri.

Independent Colleges Australia, created by ABC Learning, wants to build a kindergarten, primary and secondary school in the Hunter Economic Zone, a 3200-hectare business estate.

Donations of \$2000 each were made to the Cessnock ALP council election campaign in 2004 by executives of the economic zone's manager and Westpac Institutional Bank, an investor in the estate.

During a council debate on June 21, the Greens councillor, James Ryan, asked the Labor mayor, John Clarence, whether he would declare \$4000 donated to the council's Labor candidates as a non-pecuniary-interest donation.

Cr Clarence said he and his

fellow ALP council members were not aware that they had received those donations. When asked a week later, Cr Clarence told the *Herald* he still knew nothing about the donations.

Asked whether he would declare a non-pecuniary interest if he was to become aware he received one, Cr Clarence said it was "a matter for the individual".

The donations appear on a third-party declaration lodged with the State Electoral Office by the ALP-aligned council secretary and election candidate, Karen Jurd, in November 2004.

A Westpac Institutional Bank executive, Richard Ash, donated \$2000 to the Labor councillors, as did Max Mawhinney, when he was the executive director of the Valad Property Group, the manager of the economic zone.

Cr Ryan said no ALP councillor had declared a non-pecuniary interest in the proposal. He said that even though the council's eight Labor councillors, including the mayor, would not receive a direct financial benefit from the development, they should declare a non-financial interest.

"I am concerned that during the meeting the ALP councillors may not have declared all

the donations, which could be perceived by the public as having a connection with the [development] company," he said.

"Our code of conduct is clear that perceptions of conflict of interest are as important as actual conflict of interest."

Mr Mawhinney said he had resigned as executive director at the Valad Property Group last September but remained a part-time consultant and a director of some of its development funds.

"My reasons for donating money to the Labor Party had nothing to do with HEZ. It was for personal reasons," he said. "Valad didn't take an interest in the project until well after the donation was made."

Mr Ash said his donation was made for personal reasons and had nothing to do with the bank.

Cr Alison Davey, an independent, declared a non-pecuniary interest of \$250 for her election campaign. Cr Ian Olsen, another independent, declared a similar amount, saying the funds were donated by the economic zone.

The Local Government Minister, Kerry Hickey, who is also the MP for Cessnock, said it was up to individual councillors to declare a pecuniary or non-pecuniary interest, in line with guidelines issued this month.