

LM2016/117

31 March 2016

Mr Mark Leibler and Mr Jonathan Milner
Arnold Bloch Leibler
Lawyers and Advisers
Level 24 Chifley Tower
2 Chifley Square
SYDNEY NSW 2000

Dear Sirs

Statement of the NSW Electoral Commission

I refer to your letter dated 24 March 2016 on behalf of your client, Senator the Hon. Arthur Sinodinos AO.

The NSW Electoral Commission had before it a claim from the NSW Division of the Liberal Party of Australia for approximately \$4.4 million in public funding pursuant to the *Election Funding, Expenditure and Disclosures Act 1981* (the Act). The Commission is required by law to ensure a claimant for funding is eligible. On 23 March 2016, the Commission found that the Party was not eligible and gave reasons for its decision.

The Party Agent is the person the Commission is legally required to communicate with about funding claims. The Party via the then Party Agent, Mr McInnes, was provided with a draft Summary of Facts on 26 February 2016. The Party requested and received an extension in time to make submissions to the Commission about the 26 February 2016 correspondence. Your client may wish to raise with Mr McInnes any concerns he has about how and who Mr McInnes consulted with to prepare the Party's response to Commission correspondence.

The greater part of your letter addresses matters other than the issues addressed in the Commission's Statement and Summary of Facts dated 23 March 2016. That Summary sought to explain the Commission's reasons why funding was being withheld pending the filing on behalf of the Party of a requisite Declaration containing the statutory details of all reportable political donations for the disclosure period of 1 July 2010 to 30 June 2011. Such donations were required to be disclosed whether or not from prohibited donors.

The "arrangements" surrounding the Free Enterprise Foundation (FEF), which was the vehicle through which many such reportable donations were channelled, began before that reporting period, were continued during that period, and provided the factual and legal matrix upon which non-requisite disclosure was made by the Party in the return filed by Mr McInnes on 26 September 2011. Your client was the Honorary Treasurer at all material times, ceasing to hold that office on 16 August 2011 according to your letter under reply.

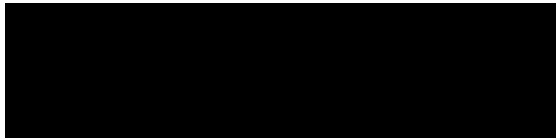


The Commission stands by its Statement and Summary of Facts dated 23 March 2016. Accordingly, the Commission is not prepared to retract its decision or any part of its Statement or Summary of Facts.

Responding to specific matters that you have raised: (1) The loose language of “washed through” that you attribute to the Commission was not in fact used in any of the documents published on its website on 23 March 2016; (2) The Commission has neither seen nor taken account of what you refer to as suppressed submissions made by your client to the ICAC.

Since you have invited us to publish your letter on the Commission website we are prepared to do so in the circumstances. This response on the Commission’s behalf will be posted also.

Yours sincerely



Keith Mason AC QC
Chairperson
NSW Electoral Commission