

Statement

By the Chairperson, NSW Electoral Commission

High Court of Australia dismisses Registered Officer's application to appeal Failure to Lodge Disclosures conviction

The High Court of Australia has dismissed an application made by Mr Robert Smith, the registered officer of The Fishing Party, who appealed a conviction for failing to disclose political donations and electoral expenditure to the NSW Electoral Commission.

Mr Smith lodged the application for special leave with the High Court on 15 August 2017 after bringing his case to the Court of Criminal Appeal, following the unsuccessful appeal of his conviction in the District Court of New South Wales. Mr Smith questioned the law that said he was the person responsible for disclosing the party's political donations and electoral expenditure.

Justice Keane and Justice Edelman of the High Court dismissed the application determining that none of Mr Smith's proposed grounds for appeal had "any prospect of success".

Mr Smith was originally convicted on 13 July 2015 at the Downing Centre Local Court for failing to disclose the party's political donations and electoral expenditure for the 12-month period ending 30 June 2013. He was ordered to pay a fine of \$2,750.00, and costs were awarded to the NSW Electoral Commission of \$5000.

Mr Smith was also ordered to pay costs to the NSW Electoral Commission of \$7,000 and \$6,957.62 following the decisions made in the District Court and the Court of Criminal Appeal, respectively.

Every political party is required under the *Election Funding, Expenditure and Disclosures Act 1981* to disclose political donations and electoral expenditure to the NSW Electoral Commission for each financial year. Parties are responsible for ensuring that political donations and electoral expenditure are managed and disclosed according to the law.

"The Commission takes seriously the responsibility to disclose political donations and expenditure and will take enforcement action against entities and individuals that, on the information known to the Commission, have failed in their responsibility," said NSW Electoral Commission Chairperson, Hon Keith Mason AC QC.

The matter was investigated by the NSW Electoral Commission and prosecuted on its behalf by the Crown Solicitor's Office.

The Fishing Party is no longer a registered party for State and local government elections in NSW.

For more information on this matter refer to the [case study](#) on our website.

In December 2014, the three member Electoral Commission was constituted. It is separate to the agency led by the Electoral Commissioner. The Commission is an independent, statutory authority. It approves public funding to the political parties and others and enforces the provisions of four NSW Acts. These provisions govern electoral funding, expenditure and disclosures, the conduct of State and local government elections and the lobbying of government officials. The Commission's Chairperson is the Hon Keith Mason AC QC, a former President of the NSW Court of Appeal (1997 to 2008). Information about this independent Commission's work can view viewed at: www.elections.nsw.gov.au/about_us/work_of_the_commission.

More information about funding and disclosure laws is available at: www.elections.nsw.gov.au/fd