Senate Inquiry into Associated Entities of Political Parties and Related Matters

Response of Graeme John Lewis to the Submission from the Australian Labor Party – NT Branch.

The submission of the ALP- NT to this Senate Enquiry has been noted, and I have been invited to respond.

The submission is in reality a diatribe of self-serving, inaccurate, untrue and in part defamatory statements over the signature of the Hon Syd Stirling President of the NT Branch of the ALP, and has the distinct effect of misleading the Senate Enquiry in relation both to myself personally and the affairs and activities of the Company known as Foundation 51 Pty Ltd of which I was a Director until the Company was deregistered last year. The Company ceased to trade in its legitimate commercial activity, and was deregistered, after mis-reporting similar to that of the submission of Hon Syd Stirling trashed the reputation and business model of the Company.

The entire matter of Foundation 51 Pty Ltd revolves around whether the Company is, or was, or was never an associated entity under the definitions in the relevant legislation. Attached as Attachment "A" is a published extract from the AEC website and it is my submission that the Company does not and never has come within any of the six criteria set out in the Act or this web extract.

The problem with interpretation is what the submission of the ALP is trying to highlight, and that point is well taken. I as a citizen agree absolutely that in the light of my horrendous experience with the matter, the definition of an associated entity should be made less open to question.

The criteria includes *inter alia* a vague statement about an entity which "operates...to a significant extent for the benefit of one or more registered political parties." The meaning or interpretation of "significant extent" in that context has never been determined nor defined, nor is there any legal precedent to determine the true meaning. Foundation 51 Pty Ltd consistently maintained that it was not caught under this definition. However, the enquiries of the AEC and the NTEC, in the context of ALP and media badgering, caused the Company to consider the implications of a potential Court interpretation of that phrase. On legal advice, it was deemed that caution was appropriate and the Company

conceded to the AEC, and NTEC that it may have been or was an associated entity. Immediately thereupon, all appropriate disclosure and reporting was completed without hesitation or delay. All monies received by the Company, regardless of thresholds were disclosed. The income so disclosed was from the commercial activities of the Company, and there were no elements of income that were in any way of a political nature, much less in the category of political donations.

It should be stated that the commercial activities included market research, research and publication of issues of public policy, conduct of seminars and think-tank events, none of which activities could ever have been categorised as political donations. This is the issue totally overlooked and mis-reported both in the submission of Hon Syd Stirling, and the biased or selective reporting by the various media scribes whose articles are appended to his submission.

In time, the AEC and the NTEC prevailed upon the Company, and the Company was persuaded to prepare and submit full disclosure returns for earlier years. Once again this was done promptly and accurately, but unquestionably outside of legislated time frames. Once again the income disclosed was all of a commercial nature, and there were no political donations involved whatsoever.

In the matter of political donations, the Company only ever made two donations TO the Country Liberals, both of which were well below the thresholds of the AEC legislation. This is a major flaw in the submission of the Hon Syd Stirling, and indeed the media generally, who have implied that the income of the Company as received and disclosed were invariably political donations. This is blatantly untrue.

The matter of "in-kind donations" must now be addressed. It is relevant to point out that I, being the writer of this submission, and being a professional accountant filled various roles in the Darwin scene. I was certainly a Director and officer of the Company, and at certain times, I was also involved in the management and affairs of the Country Liberals, including development and planning of election strategies, and Party policy. The provisions of the electoral legislation are very clear that the activities of individual members of a political party ARE NOT to be reported as in-kind support, and accordingly I did not so report.

However, claims made and legal advice received suggested that knowledge applied by me to Party activities may have been obtained by me in the course of

my duties and activities as an officer of Foundation 51 Pty Ltd. Accordingly I was advised that in order to protect both the Company and myself against any default action by the AEC or the NTEC, it would be most prudent to report in kind support being in the nature of information only, provided by me and/or the Company to the Party. Appropriate reporting in this matter relating to a number of years was made promptly to both Commissions.

In hindsight, it may have been preferable if Courts had been activated to make independent judgements, but it is significant, (and referred to by Stirling) that a comprehensive NT Police investigation was conducted, and this investigation found that the only offence committed was the late lodgement of some returns following the retrospective application of the effect of the decision to accept that associated entity status existed. It is also significant that the NT Director of Public Prosecutions also determined that it was not in the public interest to pursue a case simply relating to late lodgement of some returns.

What is paramount is that the Company did concede that it may have been or was an associated entity, and immediately thereafter, all required reports and disclosures were made, including much information not at all related to political donations. Clients of Foundation 51 who were in no way involved in anything political in their dealings with the Company became involved by association in this very tawdry reporting, particularly by Mr Seccombe.

The Stirling submission is relevant in submitting that the definition of an associated entity should be clarified, and that issue draws no opposition in my submission. However, their submission includes much matter which is untrue, irrelevant or mis-leading, and which adds nothing to that submission.

The submission of Hon Syd Stirling is supported by a raft of published material and information, submitted apparently as evidence, which can be categorised in several parts:

1. <u>Reporting my Media Agencies</u>

   The submission includes published extracts from several media agencies, being the writings of sometimes called investigative journalists including the following:

Christopher Walsh - NT News
Ben Smee - NT News
James Oaten - ABC News
Mike Seccombe - The Saturday Paper

These journalists are each very well-recognised for their anti-conservative bias, one of them even stating in public, that it is his personal goal to have the Country Liberals defeated at upcoming elections. Their writings include selective extracts from factual information, and context is no part of their reporting. That they have written and published this material, usually without any attempt to obtain my point of view, or the views of others apart from their ALP informants and/or disgruntled whistleblowers, gives rise to the opinion that their writings cannot be taken, in isolation, as valid balanced reporting.

2. Correspondence to and from Statutory Organisations (AEC, NTEC, Country Liberals)

Correspondence to and from these organisations, included in the Stirling submission as evidence in support, has been to say the least, selective and incomplete. It is significant that there is no written evidence submitted relating to the findings of the NT Police or the NT Director of Public Prosecutions, not even the reporting of such findings by the journalists referred to above supporting my assertion that the Stirling submission is incomplete and self-serving if such information is not included.

3. Hansard Extracts

Again these references, mostly by Labor Members of Parliament are self-serving and incomplete as to the substance of the debate, and add nothing to the argument put by Stirling.

4. Material sourced illegally.

Emails included in the Stirling submission, including some authored by me, were obtained illegally by media agencies. These were written by me as an official of the Country Liberals, and add nothing to the ALP case to have the definition of an associated entity revised. Inclusion of this material is again self-serving with a view to attracting attention toward alleged but

unproven wrong-doing. Once again there is no relation to the context or order in which these documents were written.

5. My Personal Affairs.

Included in the attachments are writings of journalist Christopher Walsh (22 January 2015) concerning personal matters involving myself and another person. That matter has no relevance whatsoever to the assertions made by Stirling regarding Foundation 51 Pty Ltd. The article is inaccurate, untrue and defamatory of both myself and the other person. Its inclusion in the Stirling Submission again shows clearly that the submission is designed for purposes far wider than a discussion about the definition and administration of matters relating to associated entities.

CONCLUSION

The submission of Hon Syd Stirling that the definition of an "associated entity" for the purposes of the legislation of both the Commonwealth and the Northern Territory should be altered or clarified is supported. However, the material and the assertions included in the submission, especially the attachments to the submission, are self-serving and by virtue of the inclusion of certain information, and the omission of considerable relevant material, are largely misleading. I as a law-abiding citizen of the Northern Territory and Australia subscribe strongly to the view that the current definition and administration of matters relating to associated entities must be revised. Many organisations such as Harold Nelson Holdings Pty Ltd – a Company associated with the ALP in Darwin - and the many Unions that openly support the Labor movement must be caught in any new definition.

Furthermore, the definition of "in-kind donations" should also be clarified to address the issue of the use of personal knowledge and information in political party planning and policy development.

Signed by Graeme John Lewis

ATTACHMENT 'A'

Associated entities

Updated: 14 July 2015

An associated entity under the *Commonwealth Electoral Act 1918* (s287) means an entity:

- that is controlled by one or more registered political parties; or
- that operates wholly or to a significant extent for the benefit of one or more registered political parties; or
- that is a financial member of a registered political party; or
- on whose behalf another person is a financial member of a registered political party; or
- that has voting rights in a registered political party; or
- on whose behalf another person has voting rights in a registered political party.

Examples of associated entities include '500 clubs', 'think tanks', registered clubs, service companies, trade unions and corporate party members.

Associated Entities are required to lodge an *Associated Entity Disclosure Return* by 20 October each year.

Financial Disclosure Guide for Associated Entities

The *Financial Disclosure Guide for Associated Entities* is designed to assist associated entities to understand their financial disclosure obligations under the provisions of Part XX of the *Commonwealth Electoral Act 1918* (the Act).

This guide provides information derived from the Act as well as from the experiences of the AEC in the administration of the Commonwealth funding and disclosure scheme.

Financial Disclosure Guide for Associated Entities 2014–15 financial year (contents.htm)

Financial Disclosure Guide for Associated Entities 2014–15 financial year [PDF 202KB] (files/associated-entities-2014-15.pdf)

(https://ereturns.aec.gov.au/)

Financial disclosure returns

Lodge a financial disclosure return
(/Parties_and_Representatives/financial_disclosure/returns.htm)