



Appendix C – Addendum to the AEC analysis  
of the FWA report



## Annex 3 – Update arising out of the AEC’s analysis of the FWA Report

### Addendum to the AEC’s analysis of the FWA Report

The document that was published by the AEC on 16 May 2012 indicated that further information was being sought from the NSW Branch of the Australian Labor Party (ALP) and the Health Service Union (HSU) National Office to ascertain whether or not those specific amounts of expenditure had been included in any returns lodged with the AEC. In particular, further information was sought about four items of expenditure that were listed at paragraph 196 of Chapter 7 of the FWA Report. The items were listed in Table 1 of the AEC analysis as follows:

Expenditure	Amount	Disclosure to the AEC
Establishment of the Campaign Office	\$4,826.99	Under the threshold - Further information sought to establish whether disclosed by ALP or HSU
Payments to Dobell FEC	\$3,500.00	Under the threshold – Further information sought to establish whether disclosed by ALP or HSU
Campaign Bus	\$1,277.96	Under the threshold - Further information sought to determine whether disclosed by ALP or HSU
Payments to LBH Promotions	\$7,409.93	Under the threshold - Further information sought to determine whether disclosed by HSU
<b>Total</b>	<b>\$17,014.88</b>	

The ALP advised that the above payments were not included in their disclosure returns and that they were not aware of the expenditure.

The Law Firm Slater & Gordon have responded on behalf of the HSU National Office and advised that the three returns that were lodged by Ms Kathy Jackson in October 2009

included some, but not all, of the above expenditure. The advice also indicated that some of the amounts of expenditure were not required to be reported under the Electoral Act.

In relation to the three returns lodged by Ms Jackson Slater & Gordon advised that:

1. Only limited records were available to Ms Kathy Jackson and the HSU National Office to prepare the returns;
2. The records that were relied upon were reconstructed based on obtaining bank account statements from various financial institutions, credit card statements and some electronic accounting records;
3. Officers of the union and forensic accountants identified and analysed the financial information available and attempted to identify all expenditure that could have been required to have been disclosed under the Electoral Act;
4. In preparing the three returns, the HSU National Office attempted to err on the side of disclosure.

In relation to each of the above amounts of expenditure the following information was provided.

#### Long Jetty Campaign Office

Expenses associated with the establishment and operations of the Long Jetty Campaign Office were generally included in the three returns. The purchase of the workstations (\$1,587) and the printer (\$604.95) were included in the 2006-07 return. The cost of the air conditioner (\$1,053) was not identified as related to this office and was not included due to an oversight. The telephone and fax charges (\$860.64) were not disclosed in the 2007-08 return as it was thought that some of these costs were incidental to Mr Thomson's duties as the HSU National Secretary.

#### Payments to Dobell FEC

These two payments were not disclosed in a donor return for the 2006-07 financial year as they were below the disclosure threshold. A donor return is only required to be made under sections 305A and 305B where the amount of all gifts made was more than the disclosure threshold. This is to be contrasted with the obligations relating to annual returns lodged by political parties and persons who incur political expenditure where the total amount must be included in the disclosure return but only amounts greater than the threshold need to be individually disclosed. Accordingly there was no disclosure obligation on HSU National Office for these two payments as donations in the 2006-07 financial year as these two amounts were below the disclosure threshold.

### Campaign bus

The first two payments listed to D Parish of \$671.88 and \$79.28 were identified as likely electoral expenditure and included in the return for 2007-08. The third payment of \$526.80 was not identified as likely electoral expenditure and therefore was not included in the return for 2007-08. This third payment was described in the HSU records as “motor vehicle expenses” which did not provide any direct link for this payment to be categorised as possible electoral expenditure when the annual returns were being prepared in 2009.

### Payments to LBH Promotions

The first payment of \$5,931.53 on 30 October 2006 was not identified as likely electoral expenditure. As a consequence it was not included in the 2006-07 return. The HSU National Office is still unable to identify whether this expenditure was for the ‘Your Rights at Work’ campaign, the activities of Coastal Voice or some other matter. The second payment of \$1,478.40 was identified as payment for a mail out as part of the March 2007 NSW State election and thus not disclosed in any return under the Electoral Act. This amount was also under the disclosure threshold of \$1,500 in the NSW Election Funding Act 1981.

### **Conclusions**

It would appear that the HSU National Office made reasonable attempts to disclose all electoral expenditure that they were able to identify from the incomplete records that were available to them in 2009. The HSU National Office accepted the reporting responsibility in relation to all of the amounts of expenditure that were incurred by Mr Thomson on the HSU issued credit card.

The letter from Slater & Gordon noted that possibly three of the above four items should have been included in the annual returns for the HSU National Office if they had been able to clearly identify the expenditure as being for purposes covered by the disclosure obligation in the Electoral Act (e.g. the air conditioner at the Long Jetty Campaign Office). In relation to the LBH Promotions expenditure, part of this was clearly made for a purpose that did not relate to the conduct of a federal election, while it remains unclear whether the remainder may have related to Coastal Voice or some other purpose. The two payments to the Dobell FEC were below the disclosure threshold for donations and therefore were not included in any return.

The AEC has concluded that the above circumstances show that:

- (i) there were difficulties with the availability and accuracy of records held by the HSU National Office which led to uncertainties over the characterisation of expenditure that had been incurred on the credit cards issued to its various officers and employees;

- (ii) those difficulties led to some amounts of electoral expenditure that has been identified in the FWA Report not being included in any disclosure return lodged by the HSU National Office, while other amounts were included which probably were not electoral expenditure (e.g. the total salaries of Ms Stevens and Mr Burke);
- (iii) the HSU National Office took reasonable measures in 2009 to attempt to comply with the disclosure obligations contained in the Electoral Act; and
- (iv) the total amount of electoral expenditure that has been identified in the FWA Report and which has not been disclosed is less than the disclosure threshold that was in force at the relevant time.

In these circumstances the AEC has been unable to identify any public interest that could result in action being now initiated against the HSU National Secretary, Ms Kathy Jackson, in relation to the apparent failure to fully disclose three items of expenditure which were not included in the HSU National Office returns for 2006-07 and 2007-08 financial years.