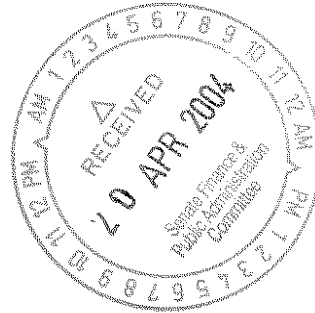




Electoral Commissioner



West Block
Parkes ACT 2600
PO Box E201
Kingston ACT 2604

Telephone (02) 6271 4400
Facsimile (02) 6271 4554

Alistair Sands
Secretary
Senate Finance and Public Administration Legislation Committee
Parliament House
CANBERRA ACT 2600

Dear Mr Sands

I refer to Mr Andy Becker's letter to you of 2 April 2004 to inform the Senate Finance and Public Administration Legislation Committee of the release of documents relating to the Australians for Honest Politics Trust by the Australian Electoral Commission (AEC) in response to a number of applications under the *Freedom of Information Act 1982*

Based on further legal advice, the AEC is releasing a second package of documents relating to the Trust. This package contains a copy of the Trust Deed.

I have enclosed a copy of the released documents together with a summary index for your Committee's information. Please contact Ms Helen Monten, Director, Parliamentary and Ministerial Section, on 02 6271 4480 or by email at helen.monten@aec.gov.au if you require any further information.

Yours sincerely

Paul Dacey
Acting Electoral Commissioner

19 April 2004

APPLICATION UNDER *FREEDOM OF INFORMATION ACT 1988*

AUSTRALIANS FOR HONEST POLITICS TRUST

FURTHER DOCUMENTS APPROVED FOR RELEASE 16 APRIL 2004

DATE	DETAILS
No date	File notes about SMH article 'Tricks of the Trade' by M Seccombe (30-31/8/03).
27/8/03	Request for Information Media Enquiry/Interview Record – Radio 2UE re T Abbott and Australians for Honest Politics Trust matter.
27/8/03	Request for Information Media Enquiry/Interview Record – Radio re T Abbott and Australians for Honest Politics Trust matter.
27/8/03	Email WAnews to Info re AAP story about AEC review of Australians for Honest Politics Trust. Email Info to A/C Info and Research referring AAP story for info.
28/8/03	Request for Information Media Enquiry/Interview Record – ABCTV re T Abbott and Australians for Honest Politics Trust matter.
28/8/03	Internal email Dir FAD to Executive et al re inquiry from FinReview journalist re associated entities. Internal email A/C Info and Research to Dir FAD et al re Australians for Honest Politics Trust matter.
1/9/03	Email A/C Info and Research et al re Media Release about EC's Media Release 1/9/03 'Electoral Disclosure Obligations', attaching draft letter to go to SMH about Seccombe article of 30-31/8/03, and mentioning new issue, Fair Go Alliance and failure to lodge disclosure return.
2/9/03	Facsimile Coversheet A/C Info and Research to Letters Editor, SMH attaching letter signed by A/g EC re SMH articles by Seccombe (30-31/8/03) and Kingston (1/9/03) re decision by AEC that Australians for Honest Politics Trust not associated entity.
1/9/03	Request for Information Media Enquiry/Interview Record, M Kingston, SMH re Trust Deed and AEC's legal advice in '98 – basis of decision not to seek disclosure?
2/9/03	Request for Information Media Enquiry/Interview Record – SMH – look at each case on a case-by-case basis.

26/8/03	Email A/C Info and Research to Exec/CO et al re Abbott and PHON and AEC to obtain legal opinion about Abbott's involvement in Sharples/Hanson matter. Also mentions Abbott and Australians for Honest Politics Trust.
24/8/98	<p data-bbox="416 333 975 365">Australians for Honest Politics Trust Deed.</p> <p data-bbox="416 407 1323 477">Please note that the quality of the copies is exactly as provided to the AEC, that is, that the last two pages are illegible.</p> <p data-bbox="416 517 1323 586">Please also note that the signature of the witness has been deleted in accordance with s.22 of the FOI Act.</p>

Australians For Political Honesty

SMH article 'Tricks of the Trade' by Mike Seccombe (30-31 August 2003, News review p31)

Claims:

- "Establishing the connections is made difficult by the AEC, the body which oversees political funding, which appears not to have done its job in this case."
- Latrobe University Law Lecturer Joo-Cheong Tham: "Abbott should have had to reveal the identities of the donors to the trust had the AEC been doing its job."
- [Joo-Cheong Tham]: "I wonder about the Commission's actions. They appear not to have chased it up. It's quite extraordinary. I think the Commission made a error of judgement, not a loophole in the law."
- [Faulkner re Seyffer and work for Liberal Party]: "Mr Seyffer's work was clearly research for the Liberal party on Paul Keating." Nothing came of it. [Seccombe]
- Once again, many experts agreed with Faulkner that the AEC should have acted. There are those within the opposition who believe that the commission, like much of the rest of the federal bureaucracy has been captured by the government.
- [Andrew Murray] "The AEC is not a classic regulator, and yet in these matters it's required to be a regulator. It's far too reactive and not proactive. The AEC needs to be far more active in its regulatory role and not just its election management role."
- Claim that AEC was asked by Faulkner re Abbott at Estimates last year and we said we had not considered it: [Seccombe] "Yet it had clearly considered it and given Abbott the go-ahead. And in a formal response to a question on notice arising from the hearing, the AEC said "it would be worthwhile seeking formal legal advice on the matter". Yet it has not released any advice. To the cynical, this might look like a cover up. Certainly, the government did not want Abbott's activities publicized.
- [Seccombe] "Abbott and his fellow travelers have now driven a wedge between government and a million One Nation sympathizers. And possibly, if the electoral commission ever finds its nerve, exposed their secret donors to public scrutiny."

REQUEST FOR INFORMATION MEDIA ENQUIRY/INTERVIEW RECORD

CALLER DETAILS Date: 27/8/03 Time: 1.40 am/pm
Name:
Address: 2UE
Telephone:
Facsimile:
E-Mail:

- print 2UE radio TV agency (eg. AAP)

ENQUIRY DETAILS

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| <input type="checkbox"/> electoral boundaries | <input type="checkbox"/> release of results |
| <input type="checkbox"/> enrolment | <input type="checkbox"/> other (please specify) |
| <input type="checkbox"/> funding and disclosure | |

re: Tony Abbott
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FURTHER ACTION REQUIRED:

→ 1998 "review" OK
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Check if the caller is on mailing list for *Electoral Newsfile*.

Call taken by: R Weising

Phil Diak 27/08/2003 04:55 PM

To: Brien Hallett/ACT/AEC@AEC
cc:

Subject: aap story

Brien

Have spoken to [redacted] (Courier Mail) and [redacted] (WestAustralian) and provided them with our response re Q5 - disclosure status of Aust for Honest Politics. No problems there.

[redacted] sent me the AAP wire for info. See below.

Phil

----- Forwarded by Phil Diak/ACT/AEC on 27/08/2003 04:58 PM -----

> on 27/08/2003 04:44:55



PM

To: <phil.diak@aec.gov.au>
cc:

Subject: aap story

Hi Phil,

AAP story as discussed.
cheers,

Fed: AEC reviewing Australians for Honest Politics Hanson AEC

CANBERRA, Aug 27 AAP - The Australian Electoral Commission (AEC) today said it would review its decision that federal minister Tony Abbott's anti-One Nation fund was not associated with the Liberal Party.

Mr Abbott established the \$100,000 Australians for Honest Politics trust fund in 1998 to challenge the validity of One Nation in the courts.

The AEC queried Mr Abbott about the fund after he declared it in his register of interests held by parliament.

Under the Electoral Act, political parties have to disclose the sources of their funding to the AEC. Mr Abbott avoided disclosing the names of donors to the fund, or the size of their contributions, because the AEC ruled the donations were not party-political.

"In 1998, we believed that the Australians for Honest Politics group was not an associated entity of the Liberal Party," an AEC spokesman said.

"As new information is emerging and this matter is progressing, we're looking at the situation, but we've got no further comment than that.

"We're looking at maintaining a watching brief on this issue as its being brought forward, and we'll review the situation."

The AEC would not say whether it had been approached to review the trust or been given new evidence.

"We don't have any comment to make on correspondence or anything of that nature," the spokesman said.

Mr Abbott said the trust's campaign to undermine One Nation in the courts had not been to benefit

Brien

AAP didn't quote what I thought they would but I guess its not too bad. Phil

the Liberals.

"I thought it was in Australia's national interest that the Pauline Hanson political juggernaut be stopped," he told the John Laws Show.

The opposition has demanded that Mr Abbott publicly name the donors.

AAP rmg/sb/ak/jlw/h

27-08-03 1458

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REQUEST FOR INFORMATION MEDIA ENQUIRY/INTERVIEW RECORD

CALLER DETAILS Date: 28/8/03 Time: 11.19 am/pm
Name:
Address: ABC TV - PARLIAMENT HOUSE
.....
Telephone:
Facsimile:
E-Mail:

- print radio TV agency (eg. AAP)

ENQUIRY DETAILS

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| <input checked="" type="checkbox"/> funding and disclosure | |

Australian for Planet Politics - TRUST
fund
BACKGROUND NAME: GAV
the position
length of time

FURTHER ACTION REQUIRED:

Check if the caller is on mailing list for *Electoral Newsfile*.

Call taken by: [Signature]

BH

[Signature]



Brien Hallett
28/08/2003 12:48 PM

To: Kathy Mitchell/ACT/AEC
cc: Executive/CO, Brad Edgman/ACT/AEC@AEC, Phil Diak/ACT/AEC@AEC, Funding & Disclosure/CO, Bernadette O'Meara/ACT/AEC,

Subject: Re: jounry inquiry Abbott/PHON

Thanks Kathy; so far today I have talked to

ABC Radio	gave brief on air comment re status of our 'review'.
Used on ABC radio news at 9.00am	
producer 2UE (and syndicates)	update on where we are at (nothing further to report)
The Australian	background on associated entities etc. asked if there
were precedents	
Channel 10	background re associated entities etc
ABC TV	background on associated entities
Fin Review	What is new legal opinion mentioned in SMH?(Said
its not new, obtained after estimates last year)	

Mr [redacted] indicated that an FOI request for the Australians for Political Honesty file (mentioned in our Harradine list of files on web site) will come in this afternoon to PAMS.

I have tried to push the line today that we are monitoring the situation. Getting more questions about when we will come to a decision (said don't know).

[redacted] had best questions: (1) were their precedents (basically no, look on caes by case basis) (2) If we find AFPH were an associated entity, had Abbott acted illeagly - I said that in general terms if it came of our attention that an individual or group had disclosure reponsibilities, our first task was to seek compliance.

FYI
BH

Kathy Mitchell



Kathy Mitchell

28/08/2003 12:25:56 PM

To: Executive/CO
cc: Brad Edgman/ACT/AEC@AEC, Phil Diak/ACT/AEC@AEC, Funding & Disclosure/CO

Subject: jounry inquiry Abbott/PHON

Folks

Spoke to [redacted] from the Fin Review

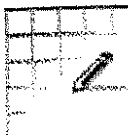
I advised her:

- of the definition of associated entity in the CEA
- that the process for the AEC determining whether an organisation is an associated entity and

- therefore, has a disclosure obligation is an information gathering one
- that determining whether an organisation is an associated entity is done on a case by case basis and will vary according to the organisation
 - that in determining whether an organisation is an associated entity we need to look at the organisation, how it was set up, why it was set up, how it operates, who is involved in it, etc
 - that the sorts of information we would gather might include such things as trust deeds, minutes of meetings, financial records, objectives of the organisation, who runs the organisation, etc
 - that information gathering may include actually talking to people but definitely involves looking at documents
 - that we have a policy of looking at issues that are raised in public fora such as the media and that there is nothing which prevents us from re-considering an issue and that, yes, this means that we are looking at this current issue
 - that we have quite extensive powers to gather information under the provisions of s316 of the CEA which even extend to getting warrants to seize documents etc

Kathy M

NB: Brien & Phil - the press galleries' internet access seems to be down at the moment, as I think you may know, so I have been helping with what's on our website



Brien Hallett
01/09/2003 05:37 PM

To: AEO/AEC, Executive/CO, Information Officers/AEC, Kathy Mitchell/ACT/AEC@AEC, Brad Edgman/ACT/AEC@AEC
cc: dorr@actewagl.net.au, mcbh@bigpond.com
Subject: Media Statement: Electoral Disclosure Obligations

Colleagues
The attached media statement is being posted on the AEC web site as we speak. In addition, I expect a letter under Paul Dacey's signature will go to the editor of the Sydney Morning Herald regarding Mike Secombe's article in Saturday's paper about the AEC role in the current 'debate' about Australians for Honest Politics Trust.



Electoral disclosure obligations MR (1 September 2003)

I am happy to discuss further if needed.

BH

**MEDIA RELEASE****Electoral Disclosure Obligations**

Electoral Commissioner Andy Becker today clarified a number of matters related to the role of the Australian Electoral Commission (AEC) and recent media coverage of the Australians for Honest Politics Trust.

"When this matter was first raised five years ago, the AEC determined at that time that the group Australians for Honest Politics was not an associated entity as specified by the Commonwealth Electoral Act," Mr Becker said.

The Electoral Act stipulates that an associated entity is an organisation set up to benefit a registered political party.

Mr Becker said that when any new information came to light, it was given careful consideration, but a knee-jerk reaction to a complex issue was inappropriate.

The Commissioner emphasised the AEC's role as an independent statutory authority and said it will consider all the issues in a measured and deliberate way.

"We are charged with ensuring that the disclosure requirements of the Electoral Act are met, even when this involves seemingly knowledgeable and articulate groups."

"The AEC is a politically neutral organisation charged with monitoring the disclosure obligations of all players in the political process and will do so without fear or favour," Mr Becker said.

Further Information:

Brien Hallett
Assistant Commissioner
Information Education & Research

Telephone 02 6271 4477
Mobile 0412 274 798

Australian Electoral Commission / AEC

Helping you have your say.

FAX	
To	
Name	Letters Editor
Organisation	Sydney Morning Herald
Facsimile Number	(02) 9282 3492
Contact Number	
Subject	Letter to the Editor from: Acting Electoral Commissioner
File Reference	
Number of Pages	2
Date Sent	2 September 2003
From	
Name	Brien Hallett Assistant Commissioner Information, Education and Research Branch
E-mail	Brien.Hallett@aec.gov.au
Facsimile Number	(02) 6271 4558
Contact Number	(02) 6271 4477

Comments

For confirmation of this letter please phone (02) 6271 4477

West Block Parkes ACT 2600
PO Box E201 Kingston ACT 2604
Ph(02)6271 4411 Fax(02)6271 4558
ABN 21133285851

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If you receive this facsimile in error please return it to the sender.



Electoral Commissioner

West Block
Parkes ACT 2600

PO Box E201
Kingston ACT 2604

Telephone (02) 6271 4400
Facsimile (02) 6271 4554

Letters Editor
Sydney Morning Herald
By fax transmission: 02 9282 3492

Dear Editor

I wish to address certain matters raised by Mike Secombe ("Tricks of the trade", *Herald*, August 30-31) regarding the Australians for Honest Politics Trust and by Margo Kingston (*Herald* website, 1 September).

When this matter was first raised five years ago, the AEC determined at that time the group was not an associated entity as specified by the Commonwealth Electoral Act. The Act clearly stipulates that an associated entity is an organisation set up to benefit a registered political party.

When any new information comes to light the AEC gives it careful consideration, but an impulsive reaction to what is a complex issue is inappropriate. There is an important difference between being 'tardy' and acting in a deliberate and measured way.

In regards to the claim that the AEC has not been 'frank' on this issue, the AEC's well-regarded transparency in electoral matters is not always obvious when following the due and fair processes that such complex issues demand.

The AEC is an independent statutory authority charged with ensuring that the disclosure requirements of the Electoral Act are met, even when this involves seemingly high profile and articulate groups.

As a politically neutral organisation, the AEC will continue to monitor the disclosure obligations of all players in the political process without fear or favour.

Paul Dacey
Acting Electoral Commissioner
2 September 2003

REQUEST FOR INFORMATION MEDIA ENQUIRY/INTERVIEW RECORD

CALLER DETAILS Date: 1/2 Time: 3:20 PM ~~am~~ pm
 Name:.....
 Address:..... MARCO KINGSTON
 Telephone:.....
 Facsimile:.....
 E-Mail:.....

- print radio TV agency (eg. AAP)

ENQUIRY DETAILS

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| <input type="checkbox"/> funding and disclosure | |

TRUST DEED
 A's legal advice }
 B's legal advice is } BASES OF DECISION

What was evidentiary basis of our decision not to seek disclosure
 FURTHER ACTION REQUIRED: 'CONFIDENCE'

THUS
 when legal advice put forward
 what did we do? action?

Check if the caller is on mailing list for Electoral Newsfile.

Call taken by:.....

Reed: matter of credibility
 CREDIBILITY OF

→ BOM 114

REQUEST FOR INFORMATION MEDIA ENQUIRY/INTERVIEW RECORD

CALLER DETAILS Date: 2/9/03 Time: 4-00 am/pm (pm)
Name:.....
Address:.....
Telephone:.....
Facsimile:.....
E-Mail:.....

SM #

print radio TV agency (eg. AAP)

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| <input type="checkbox"/> funding and disclosure | |

LOOK AT EACH CASE ON A CASE BY CASE BASIS
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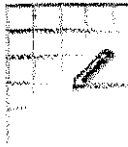
FURTHER ACTION REQUIRED:

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Check if the caller is on mailing list for *Electoral Newsfile*.

Call taken by: Kerry Weir

135(a)



Brien Hallett
26/08/2003 04:19 PM

To: Executive/CO,
cc: Anne Bright/QLD/AEC, David Farrell/NSW/AEC, Phil Diak/ACT/AEC, Paul Anderson/ACT/AEC,
Bernadette O'Meara/ACT/AEC, Brad Edgman/ACT/AEC, Kathy Mitchell/ACT/AEC,

Subject: Enquiry by . SMH re Abbott and PHON

Further to call at lunch time, he rang again and referred to the Hansard of 30 May 2002 where the AEC was questioned by Sen Faulkner re whether Mr Abbott's involvement in the Sharpies/Hanson matter was a disclosable matter and we said we would get a legal opinion. He asked if we had got that opinion and what it said.

After discussion with Brad, Doug and Tim P, I rang back and advised him that we do not comment on our legal advice (either content or whether we had actually sought it in the first place). He said that he understood that we would not comment on the content, but was surprised that we would not say what whether we had sought an opinion or not.

He then rang back to say that he had talked to Tony Abbott who had received a letter from the AEC in 1999 asking whether he would disclose details of his support for Australians For Honest Politics. He said that Abbott said that he (Abbott) wrote back to the AEC and that his answer that he did not have disclosure obligations was accepted. Seccombe wanted a copy of this letter. I talked to Doug and rang back and said that we did not release copies of correspondence to third parties. I said that if Mr Abbott wanted to release a letter he had from the AEC, that was matter for him, but that we would not.

He was not happy with this and said he would write about it in tomorrow's paper (presumably about being 'stonewalled' - my word, not his)

FYI

DATED the *24th* day of August, 1998

R

BETWEEN:

THE HONOURABLE JOHN MURRAY WHEELDON

AND:

WILLIAM PETER COLEMAN

AND

THE HONOURABLE ANTHONY JOHN ABBOTT

"AUSTRALIANS FOR HONEST
POLITICS"

TRUST DEED

THIS TRUST DEED is made on the
1998

day of August,

200

BY THE HONOURABLE JOHN MURRAY WHEELDON of Read House,
Pacific Highway, Wahroonga, in the State of New South Wales, Writer and
Former Senator

AND WILLIAM PETER COLEMAN of 4/311B Edgecliff Road, Woollahra, in
the State of New South Wales, Writer and Former Member of the House of
Representatives

AND THE HONOURABLE ANTHONY JOHN ABBOTT of 32 Lady
Davidson Circuit, Forestville in the State of New South Wales, Member of
House of Representatives (hereinafter collectively called "the Trustees")

RECITALS

- A. Various members of the Australian community wish to contribute to a Trust Fund to be known as "Australians for Honest Politics" (hereinafter called "the Trust").
- B. The object of the Trust will be to support actions to challenge the activities of a political party or association within Australia which is alleged to conduct its affairs in breach of the laws of Australia.
- C. The Trustees have agreed to act as Trustees of the Trust as hereinafter recited.

NOW THIS DEED WITNESSES AS FOLLOWS:

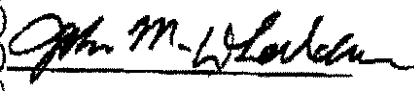
1. The Trustees shall be the Trustees of the Trust known as "Australians for Honest Politics". The term of The Trust shall be initially twelve (12) months from the date of this Deed but the term may be extended by the majority vote of the Trustees at the relevant date.

.../2

2. The Trustees will hold the Trust Fund in accordance with the object of the Trust herein recited.
3. The Trustees will deposit all contributions received to the Trust Fund in a bank account with a bank to be agreed upon by the Trustees and the Trustees shall be the only signatories to that account. Any withdrawal from that account shall be by at least two of the Trustees. The Trustees agree to maintain proper accounts and records and to issue receipts for all contributions made to the fund. At the expiration of the initial term of the Trust the Trustees will ensure that the accounts and records are properly audited and a copy of those audit accounts will be provided to any person or organisation who has contributed to the Trust Fund.
4. No Trustee will be liable for any loss of the Trust Fund made in good faith or for the negligence or fraud of any agent employed by the Trustees or by any other trustee and each of the Trustees shall be held harmless against any claims, losses or taxes arising in connection with the Trust Fund or any part thereof. The Trustees will only be liable to each other and to the contributors to the Trust to the extent of the funds deposited to the Trust Fund and no further.
5. The Trustees may at any time and from time to time by resolution or deed revoke, add to or vary all or any of the provisions of the Trust contained in this Deed and may by the same or any other resolution or deed declare any new or other trusts or powers concerning the Trust Fund. The power of appointing new Trustees or additional Trustees to this Trust is vested in the Trustees for the time being provided that the Trustees shall only appoint a new or additional trustee by a decision of a majority of the Trustees.

IN WITNESS whereof the parties have hereunto signed their signatures on the day and year first hereinbefore written.

SIGNED SEALED AND DELIVERED
by the said **THE HONOURABLE JOHN MURRAY WHEELDON**
in the presence of:-



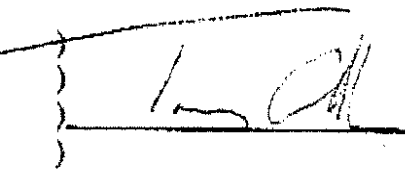
Witness

SIGNED SEALED AND DELIVERED
by the said **WILLIAM PETER COLEMAN**
in the presence of:-

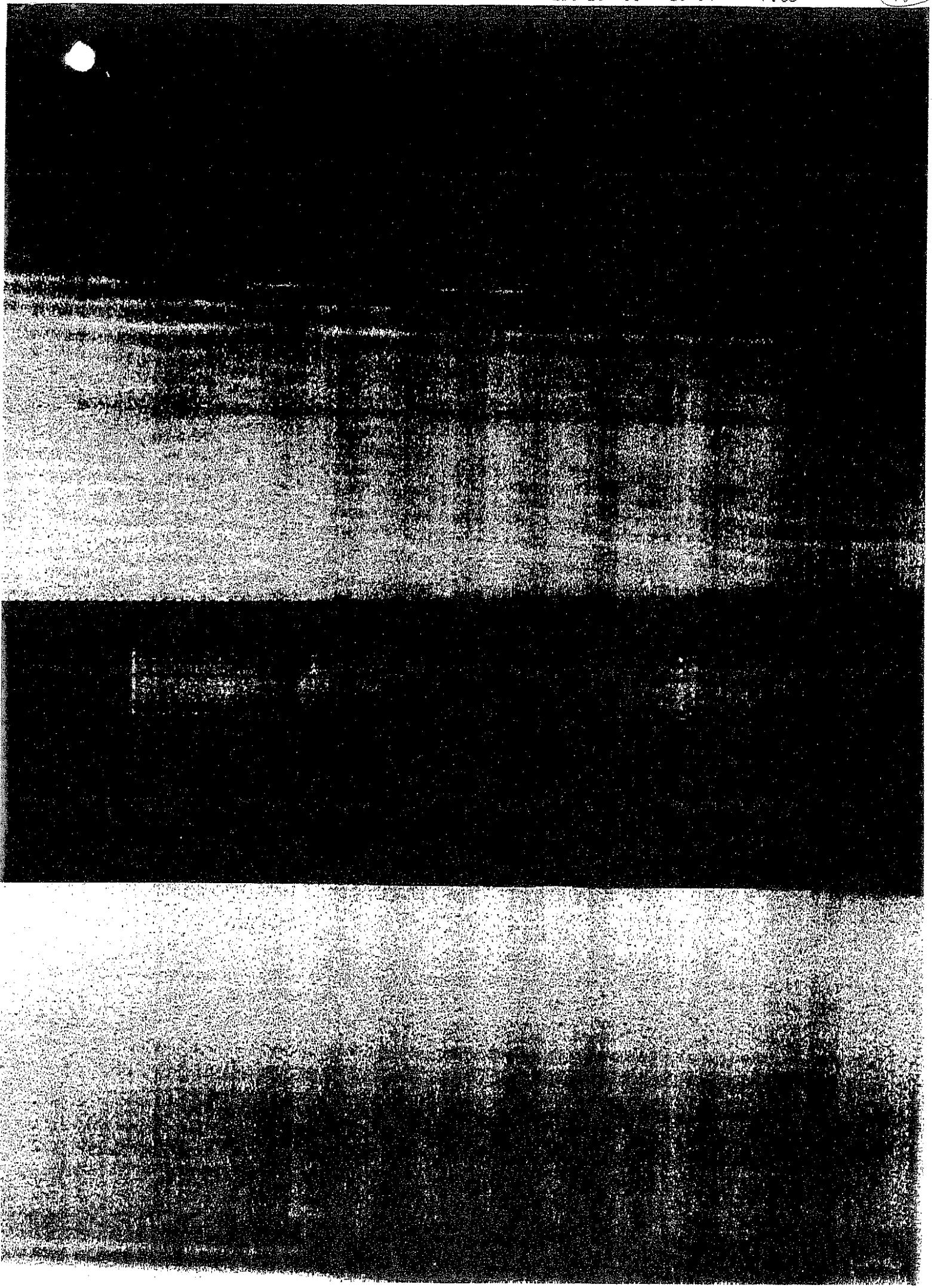


Witness

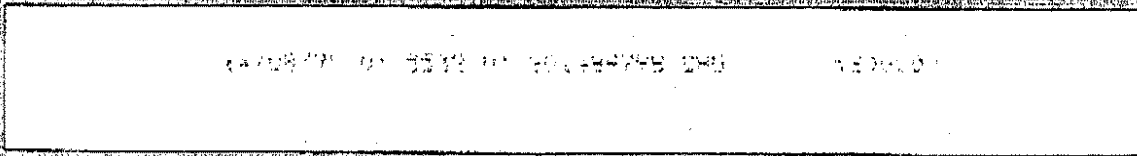
SIGNED SEALED AND DELIVERED
by the said **THE HONOURABLE ANTHONY JOHN ABBOTT**
in the presence of:-



Witness



130



Office of State Revenue NSW Treasury

Please quote this receipt number when enquiring about documents lodged on this application form

Applicant's name _____

Received the amount printed by cash register. This receipt is issued subject only to the cheque on account of which it is given being duly cleared.