

## **Standing Committee on Finance and Public Administration**

### **ANSWER TO QUESTION ON NOTICE**

**Budget Estimates Hearing – May 2010**

**Finance and Deregulation Portfolio**

#### **Outcome 1, Program 1.2**

**Topic: Costs of legal action against the AEC**

**Question reference number: F110**

**Type of Question: Written**

**Date set by the committee for the return of answer: 9 July 2010**

**Number of Pages: 2**

**Senator Ryan asked:**

- a) What was the cost of legal action taken against the AEC in 2008-09?
- b) How many of the legal actions taken against the AEC were related to industrial elections related to unions in 08-09?
- c) How many of the legal actions taken against the AEC were related to industrial elections related to employer organisations in 08-09?
- d) What was the cost of legal action taken against the AEC in 2009-10?
- e) How many of the legal actions taken against the AEC were related to industrial elections related to unions in 09-10?
- f) How many of the legal actions taken against the AEC were related to industrial elections related to employer organisations in 09-10?

#### **Answer:**

In general terms the AEC is not usually the primary party against whom legal action is taken. This is the case in matters under the *Commonwealth Electoral Act 1918* (Electoral Act), the conduct of protected action ballots under the *Fair Work Act 2009* and in other industrial elections conducted under the *Fair Work (Registered Organisations) Act*. In normal circumstances the legal proceedings are between two other parties, for example candidates in an election (e.g. the Court of Disputed Returns).

The role of the AEC in these matters is normally to seek to be joined as a party to the proceedings so that it is able to assist the court in accordance with the principles established by the High Court in the case of *R v Australian Broadcasting Tribunal; Ex parte Hardiman* (1980) 144 CLR 13.

The main exception to the above is where the litigation involves administrative decisions made by the AEC under the various enactments. Examples of this include the matters involving Mr Albert Langer aka Arthur Dent (relating to the refusal to accept his enrolment under a fictitious name), Ms Lesley Noah (relating to the refusal to accept her nomination as it did not have 50 nominators) and the Fishing

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Party (in relation to the registration of the Fishing and Lifestyle Party). In these matters the delegate of the AEC was the named respondent to the proceedings.

Accordingly, the following costs do not differentiate between the two types of litigation and provide a total picture of the AEC costs in all legal proceedings in which it has become a party in the two financial years. The distinction between an employer organisation and a union is based on the categorisation that appears on the Fair Work Australia website.

(a) \$282, 287.71.

(b) One.

(c) Nil.

(d) The costs up to 1 June 2010 were \$170,640.73.

(e) Two.

(f) Nil.