

Senate Finance and Public Administration Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
BUDGET ESTIMATES 2012-2013

Finance and Deregulation Portfolio

Department/Agency: Australian Electoral Commission

Outcome/Program: 1/1.2

Topic: Letter from Slater & Gordon re Health Services Union

Senator: Ryan

Question reference number: F80

Type of question: Hansard F&PA Committee, page 88, 23 May 2012

Date set by the committee for the return of answer: Friday, 6 July 2012

Number of pages: 7

Question:

Could I also ask—I know you have not had a chance to look at it; the document from Slater and Gordon is where I sort of lost it—whether it is possible for you to take on notice to table a copy of that document for the committee.

Answer:

A copy of the letter from the Law Firm Slater & Gordon dated 23 May 2012 is attached.

23 May 2012

Mr Paul Pirani
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By Email: Paul.Pirani@aec.gov.au

Dear Mr Piirani

**Health Services Union National Office – Returns lodged under Part XX of the
Commonwealth Electoral Act 1918 – 2006/7 and 2007/8 financial years**

We refer to your letter of 10 May 2012. We acknowledge that we have not provided the information within the one week period you nominated, but as you should appreciate there has been a deal of information and documentation to be gone through. As instructed by the HSU, we now respond to your questions as follows:

The Disclosures Generally

1. As you would be aware, the third party political expenditure and donor returns were prepared by the HSU in an environment where officers initially had access to limited financial records following the departure of Craig Thomson as National Secretary in December 2007. An exit audit was conducted by the then auditor of the HSU between December 2007 and May 2008, which highlighted numerous concerns with respect to the union's financial management over the period 2002 to 2007. There were virtually no hardcopy records at the HSU at the beginning of 2008 and the officers of the union were required to reconstruct accounts by obtaining bank account statements from various financial institutions and reviewing the available electronic accounting records. Between May and December 2008 the officers of the union did what they could to recover, identify and analyse what financial information they were able to collate.
2. In December 2008 the HSU National Executive appointed Slater & Gordon to engage a suitable forensic accounting firm to assist them with an analysis of the financial records and provide a report on the suspected irregularities. Slater & Gordon engaged BDO Kendalls as forensic accountants and the firms delivered their report ("the Slater & Gordon/BDO Kendalls Report") to the HSU National Executive on 15 June 2009.
3. The third party political expenditure and donor returns submitted by the HSU on 13 October 2009 were largely based upon the findings of the Slater & Gordon/BDO Kendalls Report. The report was prepared by the firms with a particular focus upon the credit card expenditure during the period. In addition to the credit card statements, officers of the HSU also provided a schedule of electronic payments from an HSU

account with SGE credit union which they had particular concerns with ("the SGE Schedule"). Payments not made by credit card that did not appear on that schedule were not captured by the investigation conducted by the firms and included in the final Slater & Gordon/BDO Kendalls Report. In preparing the SGE Schedule, officers of the union were limited to the statements for the SGE account.

4. By contrast, in preparing his report ("the FWA Report"), the Delegate of the General Manager of Fair Work Australia had the benefit of both the full available MYOB records for the period 1 July 2006 to 3 March 2008 and expansive interviews conducted with the former officers and employees of the HSU who incurred the expenditure. As we outline below, these differences appear to account for much of the variation between FWA's findings and the HSU's political expenditure returns.
5. In preparing the returns, the HSU attempted to err on the side of disclosure. As a consequence, there were numerous items included in the returns which have now been identified by the AEC as not necessarily third party political expenditure. For example:
 - \$6,610 of the disclosed expenditure in the 2006/07 third party political expenditure return ("the 2006/07 return") related to payments made by credit cards in the name of Mr Thomson or Ms Stevens prior to Mr Thomson's endorsement as the ALP candidate for Dobell, much of which was likely to relate to either the ordinary administration of the union, or to Coastal Voice or other activities which had the effect of raising Mr Thomson's profile in the area (i.e. activities other than the 'Your Rights at Work' campaign) and would thus not, strictly speaking, require disclosure as political expenditure;
 - \$10,000 in donations to 'Dads in Education' was included as political expenditure in the 2007/08 third party political expenditure return ("the 2007/08 return"), despite having no clear electoral quality;
 - In the period following Mr Thomson's endorsement as ALP candidate, \$4,498 of food, petrol, travel and grocery expenses were included in the returns (\$2,242 in the 2006/07 return and \$2,256 in the 2007/08 return), a large portion of which appears unlikely to have been electoral expenditure.
 - Expenses associated with the establishment and operation of the Long Jetty office were generally included in the returns, despite this office apparently being Mr Thomson's place of work as HSU National Secretary for most of the 2007 year.
 - The cost of the HSU's sponsorship arrangement with Central Coast Rugby League was included in the returns, despite the arrangement primarily promoting the HSU brand, with 'Your Rights At Work' exposure confined to the Competition Programs and Central Coast Division website.
 - All wage costs associated with the employment of Ms Stevens and Mr Burke were included in the returns, despite some of their activities falling outside of the scope of political expenditure.

Long Jetty Office

6. The purchase of workstations (\$1,587) and printer (\$604.95) were both disclosed in the 2006/07 return.
7. The payment of \$7,906.80 on 16 May 2007 to Impact Signs for signwriting was made by electronic funds transfer and was not included in the SGE Schedule which was provided to Slater & Gordon/BDO Kendalls. As a consequence, it was not disclosed in the 2006/07 return. Upon review of the FWA Report, it appears to the HSU that this expenditure most likely related to the campaign bus, rather than the Long Jetty Office (as implied by FWA). Paragraph 134 of Chapter 7 outlines a reimbursement for D Parish which includes \$175.60 for "Fuel for Bus to Newcastle (Signwriters)". The amount of the Impact Signs payment appears more commensurate with painting a bus than signwriting at the small office at Long Jetty. This simply goes to show how the collective understanding of these transactions continues to develop.
8. The air conditioner purchase of \$1,053 was not disclosed in the 2006/07 return. Your letter having drawn attention to it, it now appears that it should have been included and was not, due to an oversight.

9. The telephone/fax charges and internet charges were not disclosed in the 2007/08 return. Whilst the National Executive was never made aware of the Long Jetty Office and certainly never authorised any expenditure associated with setting up an office on the Central Coast, the National Executive was aware that Mr Thomson, as National Secretary, was working out of the Sydney office at this time and living on the Central Coast. Therefore, in reviewing the financial records for this period, the officers of the HSU considered it reasonable that there might be some Central Coast expenditure by him on office supplies and even phone and internet connections and that these would be incidental to the general administration of the union.

Dobell FEC (ALP NSW Branch)

10. These payments were not included in the returns as they were not expenditure within the scope of s314AEB(1) of the *Commonwealth Electoral Act 1918* ("the Act"). Instead, these payments were donations with a total value (\$3,500) which fell under the threshold for filing a return under either s305A(1) or s305BA(1) of the Act.

Campaign Bus

11. The first two listed payments to D Parish of \$671.88 and \$79.28 were identified in the Slater & Gordon/BDO Kendalls Report as likely electoral expenditure and disclosed in the 2007/08 return. The third payment of \$526.80 was not disclosed in the 2007/08 return. Unlike the first two payments, this transaction was not included in the SGE Schedule of payments about which which HSU officers had concerns and thus was not identified in the Slater & Gordon/BDO Kendalls Report as likely electoral expenditure.
12. The seven payments to Falcon Long Jetty (totaling \$3,395.07) were not identified as likely electoral expenditure in the Slater & Gordon/BDO Kendalls Report or disclosed in the 2007/08 return. Slater & Gordon, in that report, considered that petrol expenses incurred by Mr Thomson were likely to be incidental to the general administration of the HSU. Neither Slater & Gordon/BDO Kendalls or the HSU had the benefit of the comments made by Mr Thomson and Ms Stevens at paragraph 144 of Chapter 7 of the FWA Report in identifying the nature of the expenditure. The 2007/08 return did disclose payments made at service stations totaling \$1,951.74 for petrol and related expenses incurred by Ms Stevens and Mr Burke.

LBH Promotions

13. The 30 October 2006 payment of \$5,931.53 was not included in the SGE Schedule and thus not identified as likely electoral expenditure in the Slater & Gordon/BDO Kendalls Report. As a consequence, it was not disclosed in the 2006/07 return. We remain unable to say whether this expenditure was for the 'Your Rights At Work' campaign, the activities of Coastal Voice, or of some other nature, but note that it was incurred prior to Mr Thomson's preselection.
14. The 11 July 2007 payment of \$1,478.40 was identified in the Slater & Gordon/BDO Kendalls Report as payment for a mail-out as part of the March 2007 NSW State Election campaign and was thus not disclosed as part of the 2007/08 return which relates to federal political expenditure only. The threshold for disclosure of electoral expenditure under the relevant version of the *Election Funding Act 1981 (NSW)* was \$1,500.

Conclusions

15. This letter notes five items which were not disclosed in returns submitted by the HSU which, based upon a reading of the FWA report, may have been third party electoral expenditure for either the 2006/07 or 2007/08 financial years: the sign-writing costs, the air conditioner; the October 2007 payment to D Parish, the payments to Falcon Long Jetty, and the October 2006 payment to LBH Promotions. The Slater & Gordon/BDO Kendalls Report which the HSU relied upon in completing its returns did

not identify any of these payments as electoral expenses. The HSU did what it could to complete these returns as accurately as possible.

16. It is worth noting that these items amount to just 2.0% of the total disclosures of political expenditure made by the HSU across these two years and are less than the amounts which the union disclosed in the returns out of an abundance of caution, but which probably need not in fact have been included.
17. It is also worth noting (as the AEC report into these issues dated 16 May 2012 does) that as National Secretary of the HSU until 14 December 2012, Mr Thomson failed in his responsibility to ensure that the Donor Annual Returns for the 2006-07 financial year and the Annual Return Relating to Political Expenditure for the 2006-07 financial year were lodged on time by 17 November 2007. Mr Thomson was of course best placed at the time to identify which transactions were of an electoral nature.

Yours faithfully



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SLATER & GORDON