

Statement

By the Chairperson, NSW Electoral Commission

The NSW Electoral Commission recovers unlawful donations from former MP Timothy Owen and his 2011 State election campaign director Hugh Thomson.

Background

A NSW Electoral Commission (NSWEC) investigation found that nine unlawful donations totalling \$84,137.60 were made for the benefit of an endorsed candidate of the NSW Liberal Party in the lead up to the 2011 State election. This investigation arose from the Independent Commission Against Corruption's (ICAC) Operation Spicer.

In NSW, donations made to political parties, candidates and other election participants must be disclosed to the NSW Electoral Commission (NSWEC). This is a requirement of the *Election Funding, Expenditure and Disclosures Act 1981* (EFED Act) which sets out laws regarding election campaign finances. Since 14 December 2009 property developers and their close associates have been prohibited from making political donations. Since 1 January 2011 political donations at State elections have been capped. It is unlawful under the EFED Act to make an indirect campaign contribution including a cash payment.

The ICAC investigated allegations of breaches of the EFED Act in relation to political donations made to the NSW Liberal Party in the lead up to the 2011 State election. The allegations included: political donations that were not disclosed as required; political donations made by prohibited donors such as property developers; political donations that exceeded the cap; as well as donations that were channelled through other entities to evade NSW election campaign finance laws.

Investigation

The NSWEC investigated nine donations totalling \$84,137.60 made for the benefit of former MP Timothy Owen in the lead-up to the 2011 State election. This included \$20,000 in cash donations made to Mr Owen's campaign director Mr Hugh Thomson for electoral expenses associated with Mr Owen's campaign.

Mr Owen was the Liberal Party endorsed candidate at the 2011 State general election for the district of Newcastle. After that election, on 5 April 2011, Mr Owen became the State Member for Newcastle. He resigned from Parliament on 12 August 2014.

The donations benefiting Mr Owen totalled \$64,047.60 and the donations to Mr Thomson totalled \$20,000.

Outcome

As a candidate for the 2011 State government election, Mr Owen was required to declare all donations made to the benefit of his campaign in his 2011/12 requisite disclosure to the NSWEC. Mr Owen did not disclose the donations totalling \$64,047.60 or cash donations made to his campaign director Mr Thomson totalling \$20,000.

Under the EFED Act, these amounts were unlawful donations on three distinct grounds:

- Indirect campaign contributions,
- Donations from prohibited donors, and
- Over the cap on donations.

Mr Owen had also made a false statement on his NSWEC 2011/12 requisite declaration in attesting that he had disclosed all political donations.

On 2 August 2016, the NSWEC issued Mr Owen a letter of demand that the unlawful donations be refunded to the State of NSW.

On 22 December 2016, Mr Owen paid \$50,000 of the \$64,047.60 without admission. The NSWEC accepted this payment in full satisfaction and will not pursue this matter further.

In accepting cash payments for Mr Owen's 2011 State election candidacy, campaign director Hugh Thomson acted unlawfully. Under the EFED Act, these amounts were unlawful donations on three distinct grounds:

- Indirect campaign contributions,
- Donations from prohibited donors, and
- Over the cap on donations.

On 20 October 2016, the NSWEC issued a letter of demand that the unlawful donations be refunded to the State of NSW.

On 21 December 2016, Mr Thomson paid \$20,000 without admission. The NSWEC accepted this payment in full satisfaction and will not pursue this matter further.

Conclusion

The NSWEC has now concluded investigations and proceedings in relation to Mr Owen's candidacy in the 2011 State election; and in all matters arising from the ICAC's Operation Spicer.

In total, the NSWEC recovered \$666,992 for the State of NSW concerning donations found by investigation of matters revealed by Operation Spicer.

ABOUT THE NSW ELECTORAL COMMISSION

In December 2014, the three member Electoral Commission was constituted. It is separate to the agency led by the Electoral Commissioner. The Commission is an independent, statutory authority. It approves public funding to the political parties and others and enforces the provisions of three NSW Acts. These provisions govern electoral funding, expenditure and disclosures, the conduct of State elections and the lobbying of government officials. The Commission's Chairperson is the Hon Keith Mason AC QC, a former President of the NSW Court of Appeal (1997 to 2008). Information about this independent Commission's work can view viewed at:

www.elections.nsw.gov.au/about_us/work_of_the_commission

More information about funding and disclosure laws is available at: www.elections.nsw.gov.au/fd