

## Members

Hon Andrew McGechan (President)  
Dr Helena Catt (Chief Executive)

Dated: 29 July 2008

Decision Number: 2008-18

Initiated by

**ELECTORAL COMMISSION**

In relation to

**THE GREENS, GREEN PARTY OF  
AOTEAROA/NEW ZEALAND**

### **Subject**

Return of party donation received from same donor in excess of \$20,000.

### **Findings and Determination**

Contravention of section 54 of the Electoral Finance Act 2007 by failure to file the return within 10 working days of receipt of the relevant donation. No offence committed under section 56 as there was reasonable excuse for the failure.

**This headnote does not form part of the decision.**

### **Subject**

Green Party returns of party donations exceeding \$20,000 were received on 16, 23 and 27 June 2008. They appear to have been received outside the statutory timeframe, triggered by accumulated donations from the same person exceeding \$20,000. The information supplied on the returns indicated that Green Party received a series of donations, many automatic payments from each donor over the last year.

Section 54 of the Electoral Finance Act (the Act) requires financial agents to file with the Electoral Commission a return in respect of every party donation that:

- exceeds \$20,000; or
- when aggregated with all donations from that same donor over the preceding 12 months exceeds \$20,000.

The return must be filed within 10 working days of the relevant donation being received by the financial agent.

### **Issues raised**

The Electoral Commission considered whether the return was filed within the timeframe specified in section 54 of the Act and, if not, whether an offence had been committed under section 56.

## **Electoral Finance Act 2007**

Section 54(2) of the Act requires financial agents to file with the Electoral Commission a return of party donation where the aggregate of donations from the same donor in the preceding 12 months exceeds \$20,000. The return must be filed with the Electoral Commission within 10 working days of receiving the donation which, when aggregated with all other donations from that donor in the preceding 12 months, exceeds \$20,000 (section 54(6)).

Every financial agent who fails, without reasonable excuse, to comply with section 54 commits an offence (section 56(1)).

## **Comments from Green Party of Aotearoa New Zealand**

The Green Party financial agent provided a covering letter indicating that, in response to the Commission's reminder notice of 29 May 2008, they had reviewed their records and identified the disclosable donations all of which included regular automatic payments.

## **Electoral Commission's Determination**

The Electoral Commission has considered the requirements to provide returns of party donations under the Act along with the items listed below.

On 29 May the Commission sent a letter to all party secretaries and financial agents reminding them of the requirements to report within 10 days donations over \$20,000, including aggregations over the previous twelve months.

The Electoral Commission determined that none of the returns were received within the required timeframe. :

Section 56(1) of the Act provides:

*Every financial agent who, without reasonable excuse, fails to comply with sections 51 or 54 commits an offence ...*

It is settled law that the reasonableness of an excuse must be considered in light of the particular circumstances (see, for example, the case of *R v Hyde* (1990) 7 CRNZ 366).

In the view of the Electoral Commission the matters outlined by the financial agent in his letter of 23 June 2008 and summarised above constitute a reasonable excuse for the failure to comply on this occasion, and therefore no offence has been committed.

**For the above reasons it is the view of the Electoral Commission that the financial agent for the Green Party of Aotearoa New Zealand did not commit an offence for the purposes of section 56 of the Electoral Finance Act 2007.**

Signed for and on behalf of the Electoral Commission



Dr Helena Catt  
Chief Executive and Commissioner  
New Zealand Electoral Commission

1 August 2008

## **Appendix**

The following items were received and considered by the Electoral Commission when it determined this matter:

- 1 Letter, 13 June 2008, from financial agent for the Green Party
- 2 Letter, 16 June 2008, from financial agent for the Green Party
- 3 Letter, 23 June 2008, from financial agent for the Green Party
- 4 Green Party section 54 returns in respect of (and dated) Dr Stuart Bramwell (16 June 2008), Christopher Marshall (23 June 2008), Jeanette Fitzsimmons (27 June 2008), Sue Kedgley (27 June 2008)
- 5 Decision 2008-01 Green Party section 54 return