

## Members present

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

Dated: 29 July 2008

Decision Number: 2008-19

Initiated by

**ELECTORAL COMMISSION**

In relation to

**Annual return of party donations for 2007  
NEW ZEALAND FIRST**

### **Findings and Determination**

The New Zealand First Party's donation return for 2007 was filed after the due date. There was a reasonable excuse for the late filing therefore no offence was committed.

Failure to comply with section 214G(1) of the Electoral Act 1993 by failure to ensure the Electoral Commission received the annual return of party donations by 30 April 2008. No offence committed under section 214G(3) as there was reasonable excuse for the failure to comply.

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

### **Subject**

Annual returns of party donations were required to be filed with the Electoral Commission by 30 April 2008. The Electoral Commission received an annual return of party donations from New Zealand First on 16 May 2008.

### **Issues raised**

The Electoral Commission considered whether the return was received by 30 April 2008 and, if not, whether an offence had been committed.

### **Electoral Act 1993**

Section 214G(1) of the Electoral Act (the Act) requires every secretary of a registered political party to ensure the Electoral Commission receives by 30 April a return of party donations received in the preceding calendar year.

Every party secretary who fails, without reasonable excuse, to comply with section 214G(1) commits an offence (section 214G(3)).

### **Comments from New Zealand First**

The secretary of New Zealand First provided a written explanation of the reasons the return was filed late including changes in the upper levels of office holders such that many had not been through the donation return process before; an episode where communication between the treasurer and auditor lacked clarity; and a significant personal issue for which details were provided and which the Commission recognises to be a private matter.

Given that these explanations were at odds in part with a report in the media that suggested that party officials were waiting for the party leader to return to New Zealand to sign off the return, we

asked her to explain the difference. She provided a further written explanation that noted that the material was sent to the auditor before the party leader returned to New Zealand and again emphasising that the people involved were new to their posts.

### **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 as exhibits (below). It determined that the return was not received by 30 April 2008.

Section 214G(3) of the Act provides:

*Every secretary of a political party registered under Part 4 who fails, without reasonable excuse, to comply with subsection(1) or subsection (2) 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 party secretary in her letter and summarised above indicate the explanation constitutes 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 secretary for The New Zealand First Party did not commit an offence for the purposes of section 214G of the Electoral Act 1993.**

Signed for and on behalf of the Electoral Commission



Dr Helena Catt  
Chief Executive and Commissioner  
New Zealand Electoral Commission

1 August 2008

### **Exhibits**

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

1. letter, 5 June 2008, response from secretary of NZ First
2. New Zealand Herald item, 2 May 2008, relating to the late filing by NZ First
3. letter, 16 June 2008, to secretary of NZ First requesting explanation of the discrepancies
4. letter, 4 July 2008, from secretary of NZ First