

# MEMORANDUM



To: Hugo Bergeron, Assistant Director Compliance

From: Jemelyn Go, Senior Audit Officer

Date: 11 February 2016

Subject: Referral to Investigation for preliminary review & assessment – potential breaches of Election Funding, Expenditure and Disclosures Act

File No.: TBA

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## PURPOSES:

1. To seek approval to refer to Investigation the suspicious donations received by the Australian Labor Party (ALP) and the Country Labor Party (CLP) at a fundraising event ('Chinese Community Dinner' / 'Chinese Friends of Labor') disclosed for the period ending 30 June 2015. Audit suspects that:
  - A. The sum of \$100,000 received in cash by the parties and disclosed as donations received from a total of 12 individuals or entities was in fact provided by a single individual, presumably Mr Jonathan Yee. This could constitute offences under:
    - i. Section 96HA(2) – making a donation with the intention of causing the donation to be accepted in contravention of Division 2A [s.95A(1)(a) and s.95B(1) – prohibition on political donations to the benefit of a registered party exceeding the applicable cap].
    - ii. Section 96HB(1) – entering into or carrying out a scheme (whether alone or with others) for the purpose of circumventing a prohibition or requirement of Part 6 with respect to political donations.
  - B. One of the disclosed donors (Mr. Quanbao Liao), if found to be genuine, may be a prohibited donor *under s. 96GB* with regards to his association with a property developer.

## BACKGROUND:

2. The *Election Funding, Expenditure and Disclosures Act* ('the Act') requires disclosure of political donations and electoral expenditure in accordance with Part 6, Division 2 of the Act (s.88). Disclosures required to be made by parties, elected members, groups, candidates, Third-party campaigners and major political donors.

### Application to State elections only

3. The applicable cap on political donations as set forth in section 95AA(2) of the Act applies to the following:

- (a) to an election is a reference that relates to a State Election, and
- (b) to an elected member or to a candidate or other person is a reference that relates to a member of Parliament or to a candidate or other person in connection with a State election.

#### Caps on political donations for State Elections

- 4. Under section 95A(1), the Applicable cap on political donations is as follows:
  - (a) \$5,000 for political donations to or for the benefit of a registered party,
  - (b) \$2,000 for political donations to or for the benefit of a party that is not a registered party,
  - (c) \$2,000 for political donations to or for the benefit of an elected member,
  - (d) \$5,000 for political donations to or for the benefit of a group,
  - (e) \$2,000 for a political donations to or for the benefit of a candidate,
  - (f) \$2,000 for a political donations to or for the benefit of a third-party campaigner.

#### Prohibition of donations from property developers or tobacco, liquor or gambling industries

- 5. Part 6, Division 4A of the Act defines prohibited donor as [s.96GAA]
  - (a) a property developer, or
  - (b) a tobacco industry business entity, or
  - (c) a liquor or gambling industry business entity, and includes any industry representative organisation if the majority of its members are such prohibited donors.
- 6. Section 96GA states:
  - (1) It is unlawful for a prohibited donor to make a political donation.
  - (2) It is unlawful for a person to make a political donation on behalf of a prohibited donor.
  - (3) It is unlawful for a person to accept a political donation that was made (wholly or partly) by a prohibited donor or by a person on behalf of a prohibited donor.
  - (4) It is unlawful for a prohibited donor to solicit another person to make a political donation.
  - (5) It is unlawful for a person to solicit another person on behalf of a prohibited donor to make a political donation.

#### Offences relating to caps on donations and expenditure

- 7. Section 96HA(2) prescribes that a person who makes a donation with the intention of causing the donation to be accepted in contravention of Division 2A is guilty of an offence.

Offence relating to schedule to circumvent the donation or expenditure prohibitions or restrictions

8. Section 96HB(1) states that a person who enters into or carries out a scheme (whether alone or with others) for the purpose of circumventing a prohibition or requirement of Part 6 with respect to political donations or electoral expenditure is guilty of an offence.

**FACTS & ANALYSIS:**

9. Audit reviewed the disclosures of political donations and electoral expenditure received from the Australian Labor Party (ALP) and the Country Labor Party (CLP) for the year ending 30 June 2015. One of the fundraising events listed in the disclosure relates to a 'Chinese Community Dinner' (ALP)/ 'Chinese Friends of Labor' (CLP) held at The Eight Modern Chinese Restaurant, Sydney on 12/03/2015. Total gross revenue generated by the ALP and CLP are \$88,930 and \$50,000 respectively. *[Audit note: ALP disclosure seem to have erroneously reported the gross revenue of the 'Chinese Community Dinner' as 'Chifley Forum' as per verification of details & accounting records provided.] Please refer to Appendix 1 for parties' disclosures.*
10. Details of the Reportable Political Donations received for this fundraising event were reviewed and Audit identified a number of major political donors giving \$5,000 (the cap) to either or both the ALP and CLP.



ALP-CLP Chinese  
dinner fundraising ev

- A. Australian Labor Party – 10 donors @ \$5,000 = \$50,000 *[Please refer to Appendix 2- Tax invoice issued by the Party & Appendix 3 – Donor disclosure]*

| Date donation was made | To Whom or for whose benefit was the donation made | Name of donor            | Amount or value of donation | Receipt No. |
|------------------------|--|--------------------------|-----------------------------|-------------|
| 9/04/2015              | ALP NSW  | EMPEROR'S GARDEN PTY LTD | \$5,000.00                  | 40916       |
| 9/04/2015              | ALP NSW  | HARBOUR CITY GROUP P/L   | \$5,000.00                  | 40910       |
| 9/04/2015              | ALP NSW  | JOHNNIE LIN              | \$5,000.00                  | 40908       |
| 9/04/2015              | ALP NSW  | JONATHAN YEE             | \$5,000.00                  | 40915       |
| 9/04/2015              | ALP NSW  | LEI MO                   | \$5,000.00                  | 40913       |
| 9/04/2015              | ALP NSW  | MAY HO YEE               | \$5,000.00                  | 40918       |
| 9/04/2015              | ALP NSW  | PATRICIA, G SIU          | \$5,000.00                  | 40911       |
| 9/04/2015              | ALP NSW  | TERESA TAY               | \$5,000.00                  | 40912       |
| 9/04/2015              | ALP NSW  | VALENTINE YEE            | \$5,000.00                  | 40914       |
| 9/04/2015              | ALP NSW  | WEI SHI                  | \$5,000.00                  | 40917       |

- B. Country Labor Party - 10 donors @ \$5,000 = \$50,000 *[Please refer to Appendix 2- Tax invoice issued by the Party & Appendix 3 – Donor Disclosure]*

| Date donation was made | To Whom or for whose benefit was the donation made | Name of donor            | Amount or value of donation | Receipt No. |
|------------------------|--|--------------------------|-----------------------------|-------------|
| 9/04/2015              | Country Labor                                      | EMPEROR'S GARDEN PTY LTD | \$5,000.00                  | 40926       |
| 9/04/2015              | Country Labor                                      | JOHNNIE LIN              | \$5,000.00                  | 40929       |
| 9/04/2015              | Country Labor                                      | JONATHAN YEE             | \$5,000.00                  | 40925       |
| 9/04/2015              | Country Labor                                      | LEI MO                   | \$5,000.00                  | 40923       |
| 9/04/2015              | Country Labor                                      | MAY HO YEE               | \$5,000.00                  | 40928       |
| 9/04/2015              | Country Labor                                      | PATRICIA, G SIU          | \$5,000.00                  | 40921       |
| 9/04/2015              | Country Labor                                      | QUANBAO LIAO             | \$5,000.00                  | 40920       |
| 9/04/2015              | Country Labor                                      | STEVE TONG               | \$5,000.00                  | 40924       |
| 9/04/2015              | Country Labor                                      | TERESA TAY               | \$5,000.00                  | 40922       |
| 9/04/2015              | Country Labor                                      | WEI SHI                  | \$5,000.00                  | 40927       |

Out of the 10 donors identified in CLP, there are 8 donors (except for Steve Tong & Quanbao Liao) who also donated \$5,000 to ALP.

11. Financial records provided by the ALP shows that these donations totalling \$100,000 [\$50,000 for the ALP and \$50,000 for the CLP] were received in the form of 'cash' and deposited on 9/04/2015 into the respective party's state campaign account. Audit also noted that the donations were made almost a month after the fundraising event held on 12/3/2015.



ALP - Bank Deposit - 09042015.PNG



CLP - Bank Deposit - 09042015.PNG

12. Donations received by the party can be in the form of cash, cheque or credit card payments. A report from the financial records provided by the ALP was generated to identify cash donations deposited into the party's state campaign account (see embedded file below). It reveals that most of the cash deposits (predominantly in ALP State Campaign Account) are less than \$1,000 except for these donations. They appear to be exceptions. Although not unlawful, payments for transactions involving large amounts using cash is not a common business practice. Cash payments (i.e \$10,000) may be used if there is an intention to hide the identity of the donor or conceal the source of funds.



Bank Deposit Register - Cash paym

13. A review of the donor's profile shows the following relationships (see Appendix 4 for supporting evidence):
- A. Mr Jonathan Yee has direct family / business relationship with Emperor's Garden Pty Ltd, May Ho Yee & Valentine Yee. Access to funds (cash) from the restaurant business is possible. It was noted that Mr Jonathan Yee has strong ties with the

Labor Party and has political ambitions [e.g. seeking to become Labor candidate to take on Clover Moore as Lord Mayor of Sydney in 2012].

- B. The current or past occupation of the following donors is waiter/waitress: (1) Johnnie Lin, (2) Lei Mo, (3) Patricia Sui, (4) Teresa Tam and (5) Wei Shi. It appears that these donors have connection with the Emperor's Garden Pty Ltd. or Yee's family business. Further, given the relatively modest income associated with the waiter/waitress profession, it is suspicious for each of them to be in a position to donate a total of \$10,000 to the ALP and the CLP.
  - C. It was also noted that Lei Mo initially lodged a 'nil' donor disclosure and subsequently amended the disclosure to report total of \$10K donations made to the ALP and the CLP.
  - D. Audit also noted donations from Mr. Quanbao Liao, Manager at Wu International Investments Pty Ltd. The major undertaking of the company seems to be related to real estate development. It aims to develop medium-high-end commercial and residential properties around Sydney's CBD and Northern Sydney CBD. He may potentially be classified as close associate of a prohibited donor.
14. Most of the donor disclosures not related to J. Yee business or family (except for May Ho Yee, who is 67 years old) were lodged in January/ February 2016 while others are yet to be received by NSWEC. [Please refer to Appendix 3]
15. It also seems odd that individuals mostly involved in business undertaking, or working in or around Sydney, have supported the Country Labor Party. Candidates endorsed by the CLP are generally contesting remote or rural electorates.

#### RECOMMENDATION:

Given the information gathered, Audit recommends that Investigation reviews the donations received by the ALP and the CLP from Mr Jonathan Yee et al in relation to the 'Chinese Community Dinner' and 'Chinese Friends of Labor' fundraising events. Investigation may wish to undertake further enquiries to assess whether these donations were made solely by Mr Jonathan Yee, using other individuals/entities names to circumvent the donation cap.

Furthermore, should Mr Liao's donation origin found to be genuine, Investigation may want to review his association with an alleged prohibited donor (property developer).



Audit is available to provide assistance to the Investigation team as required.

Prepared by:



**Jemelyn Go**  
Senior Audit Officer  
Date: /02/2016

## APPENDICES:












## Appendix 1: ALP &amp; CLP Disclosure for the period ending 30 June 2015

| No. | Name of Party          | Lodgement date | Party Disclosure File   |
|-----|------------------------|----------------|---|
| 1   | Australian Labor Party | 02/11/2015     | <br>ALP - Disclosure 30 June 2015 - Original C |
| 2   | Country Labor Party    | 02/11/2015     | <br>CLP - Disclosure 30 June 2015 - Original - |

## Appendix 2: Tax invoices (receipts) issued by ALP &amp; CLP to the donors

| No. | Name of Party          | Tax Invoice File  |
|-----|------------------------|---|
| 1   | Australian Labor Party | <br>Tax Invoices issued by ALP.pdf   |
| 2   | Country Labor Party    | <br>Tax Invoices issued by CLP.pdf |











## Appendix 3: Donor Disclosure for the period ending 30 June 2015






| No. | Name of Donor            | Lodgement date                   | Donor Disclosure File   |
|-----|--------------------------|----------------------------------|---|
| 1   | Emperor's Garden Pty Ltd | 20/11/2015                       | <br>Emperors Garden Pty Ltd - Donor Disclosure   |
|     | Emperor's Garden Pty Ltd | 26/11/2015                       | <br>Emperors Garden Pty Ltd - Donor Disclosure   |
| 2   | Jonathan Yee             | 20/11/2015                       | <br>Jonathan Yee - Donor Disclosure 30 J         |
|     | Jonathan Yee             | 03/02/2016                       | <br>Jonathan Yee - Donor Disclosure 30 J         |
| 3   | Valentine Yee            | 13/10/2015                       | <br>Valentine Yee - Donor Disclosure 30 J        |
|     | Valentine Yee            | 28/01/2016                       | <br>Valentine Yee - Donor Disclosure 30 J      |
| 4   | May Ho Yee               | 08/02/2016 (Incorrect form used) |   |
| 5   | Johnnie Chi Wah Lin      | 05/02/2016                       | <br>Johnnie Chi Wah Lin - Donor Disclosure 30  |
| 6   | Lei Mo                   | 08/09/2015                       | <br>Lei Mo - Donor Disclosure 30 June 20       |
|     | Lei Mo                   | 08/10/2015                       | <br>Lei Mo - Donor Disclosure 30 June 20       |
| 7   | Patricia Siu             | 05/02/2016                       | <br>Patricia Siu - Donor Disclosure 30 June 20 |
| 8   | Quanbao Liao             | 25/01/2016                       | <br>Quanbao Liao - Donor Disclosure 30 J       |
| 9   | Steve Tong               | Not lodged as at 09/02/2016      |   |
| 10  | Teresa Tam               | Not lodged as at 09/02/2016      |   |
| 11  | Wei Shi                  | Not lodged as at 09/02/2016      |   |
| 12  | Harbour City Group P/L   | Not lodged as at 09/02/2016      |   |





## Appendix 4: Profile of the donors available in the internet &amp;/or RMANS

| No. | Name of the Donor   | Nature of Business/ Occupation (Current &/or Past)   | File  |
|-----|---|--|---|
| 1   | Emperor's Garden Pty Ltd  | Restaurant<br>Directors: <ul style="list-style-type: none"> <li>Stanley Yee</li> <li>May Ho Yee</li> <li>Jonathan Yee</li> </ul>   | <br>Profile of Emperors Garden Pty Ltd.pdf |
| 2   | Jonathan Yee<br>(DoB: [REDACTED])   | <ul style="list-style-type: none"> <li>Director/ General Manager of Emperor's Garden Pty Ltd</li> <li>President (NSW Chapter)- Hong Kong Business Association</li> <li>President -Lions Club of Sydney Inner West</li> <li>Chairman – Asian Fiends of Labor</li> </ul> | <br>Profile of Jonathan Yee.pdf            |
| 3   | Valentine Yee<br>(DoB: [REDACTED])  | CFO of Emperor's Garden Pty Ltd  | <br>Profile of Valentine Yee.pdf           |
| 4   | May Ho Yee<br>(DoB: [REDACTED])   | Director of Emperor's Garden Pty Ltd   | <br>Profile of May Ho Yee.pdf            |
| 5   | Johnnie Chi Wah Lin<br>(DoB: [REDACTED])  | Waiter   | <br>RMANS - Johnnie Chi Wah Lin.pdf      |
| 6   | Lei Mo<br>(DoB: [REDACTED])   | Waiter   | <br>Profile of Lei Mo.pdf                |
| 7   | Patricia Siu<br>(DoB: [REDACTED])   | Waitress   | <br>Profile of Patricia Siu.pdf          |
| 8   | Quanbao Liao<br>"Leo Liao"<br>(DoB: [REDACTED])   | General Manager of Wu International Investments Pty Ltd  | <br>Profile of Leo Liao.pdf              |
|     |   |  | <br>Profile of Quanbao.pdf               |
|     | Wu International Investments Pty Ltd.<br><a href="http://www.wuinternational.com.au/">http://www.wuinternational.com.au/</a><br>(employer of Mr Quanbao Liao) | Real Estate Developer <ul style="list-style-type: none"> <li>develop medium-high-end commercial and residential properties.</li> <li>projects includes around Sydney's CBD and Northern</li> </ul>   | <br>Profile of Wu International Investr  |

|    |                                 |  |   |
|----|---------------------------------|--|---|
|    |                                 | Sydney CBD.                              |   |
|    |                                 |  | <br>Profile of WuInternational.pdf   |
| 9  | Steve Tong<br>(DoB: [REDACTED]) | Electrician                              | <br>Profile of Steve Tong.pdf        |
| 10 | Teresa Tam<br>(DoB: [REDACTED]) | Waitress                                 | <br>Profile of Teresa Tam.pdf        |
| 11 | Wei Shi<br>(DoB: [REDACTED])    | Hospitality/ Waiter                      | <br>Profile of Wei Shi.pdf           |
| 12 | Harbour City Group P/L          | Retail Stores (Jewellery, Novelty items) | <br>Profile of Harbor City Group.pdf |