

Liz Georgiou

From: Sarah Butler
Sent: Friday, 16 September 2016 7:04 PM
To: Ian Robertson
Subject: Nick Lalich MP
Attachments: Email to NSW ALP re Nick Lalich MP vw .doc

Hi Ian

I am having a few issues with my remote access to File Site, so I have drafted the email in the attached Word document.

Please let me know if you have any comments or questions.

I am happy to spend some more time on this later tonight, but I have to head to dinner now so I thought I should send this to you in the interests of time.

Kind regards,

Sarah
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PRIVATE AND CONFIDENTIAL LEGAL ADVICE

Dear Kaila

Further to our telephone conversation this afternoon, as requested we have further considered the potential issues arising in relation to the trip taken by Nick Lalich MP in 2014 and paid for by the Managing Director of ABC Tissues, Henry Ngai.

Mr Ngai's status as a property developer

As you know, a property developer is a prohibited donor under section 96GAA of the *Election Funding, Expenditure and Disclosures Act 1981* (NSW) (EFED Act). A property developer under is defined under section 96GB of the EFED Act as:

- (a) a corporation engaged in a business that regularly involves the making of relevant planning applications by or on behalf of the corporation in connection with the residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit,*
- (b) a person who is a close associate of a corporation referred to in paragraph (a).*

Accordingly, if Mr Ngai is considered a "close associate" of a property developer, it is unlawful for an elected member to receive a political donation from him. For completeness, we note that section 96GB(3) of the EFED Act provides that a "close associate" of a property developer is each of the following:

- (a) a director or officer of the corporation or the spouse of such a director or officer,*
- (b) a related body corporate of the corporation,*
- (c) a person whose voting power in the corporation or a related body corporate of the corporation is greater than 20% or the spouse of such a person,*
- (d) if the corporation or a related body corporate of the corporation is a stapled entity in relation to a stapled security—the other stapled entity in relation to that stapled security,*
- (e) if the corporation is a trustee, manager or responsible entity in relation to a trust—a person who holds more than 20% of the units in the trust (in the case of a unit trust) or is a beneficiary of the trust (in the case of a discretionary trust).*

We understand that the ALP (NSW) is conducting due diligence in relation to the status of ABC Tissues as a property developer and Mr Ngai as a close associate of any property developer, including ABC Tissues if relevant. We would be happy to advise on this issue further once the ALP (NSW) has received more information.

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Kind regards,

Ian.