

NSW Liberals 'concealed' illegal donors before 2011 election win

SMH March 23, 2016

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Funding scandal: Cabinet secretary Arthur Sinodinos. Photo: Andrew Meares

The NSW Liberal party has been slammed by election funding authorities for "concealing" the identities of illegal major donors before the 2011 election that brought it to power, including via the secretive Free Enterprise Foundation.

In an extraordinary finding, the NSW electoral commission has concluded that, based on evidence given to the Independent Commission Against Corruption in 2014, the foundation was used by senior Liberal party officials to "channel and disguise donations by major political donors some of whom were prohibited donors".

The commission says it has relied on evidence given to the ICAC by senior party officials including about the "involvement" of current cabinet secretary Arthur Sinodinos, who was finance director and treasurer of the NSW Liberals at the time.

In a statement released late on Wednesday, commission chairman and former NSW court of appeal president Keith Mason, QC, says the NSW Liberals have repeatedly failed to hand over details of donors to the foundation, which in turn helped bankroll the party's election victory five years ago.

The donations in question total \$693,000.

As a consequence the commission is refusing to hand over \$4.4million in public funding the NSW Liberals have claimed from last year's state election – a decision the party says puts "pressure" on its financial situation given the looming federal election. In a potentially enormous financial blow, the commission says it will not pay likely millions of dollars in future administrative funding to the party until the donors are disclosed.

It finds by not disclosing details of the donors, the Liberal Party has breached NSW electoral law.

"Integrity and public confidence in the electoral system are vital," Mr Mason said.

"The election funding and disclosure scheme promotes campaign finance transparency.

"This party declaration concealed rather than disclosed the statutory information. Parties seeking public funding must play by the rules".

A party spokeswoman said it was currently reviewing the finding.

In correspondence released by the commission, lawyers for the Liberal party said if they were not paid the money "our client has no choice but to apply to the Supreme Court of NSW for urgent relief".

A spokesman for Mr Sinodinos declined to comment and referred queries to the Liberal party.

Fairfax Media revealed on Wednesday that the commission was threatening to withhold the money due to questions over the identity of donors to the Free Enterprise Foundation.

The operations of the Foundation – a federal fundraising body linked to the Liberal party – were closely examined by the ICAC during its Operation Spicer investigation in 2014.

The commission heard senior Liberal officials used fundraising bodies the Millennium Forum and the Free Enterprise Foundation to funnel hundreds of thousands of dollars in prohibited donations into the Liberal party's 2011 NSW election campaign.

It was alleged donations prohibited under NSW law, including from property developers, were instead made to the Free Enterprise Foundation, which is not bound by state donations law.

The foundation would then donate to the NSW Liberals' state campaign. ICAC has yet to hand down its report into Operation Spicer, but the electoral commission has made its own conclusions based on the available evidence.

"In truth the Foundation had been used by senior officials of the Party and an employed party fundraiser to channel and disguise donations by major political donors some of whom were prohibited donors," its summary of facts states. "No disclosure of the requisite details for those major donors has been made despite the party having been requested to remedy the deficiency".

The commission says the NSW Liberals were legally bound to disclose the identities of the donors to the foundation because it was "never a validly constituted charitable trust". Despite the Millennium Forum handing over money to the foundation to use at its discretion, "the true legal position meant that the money remained under the control of the 'donors'".

"When the Foundation purported to pay the money to the Liberal Party ... it was in truth acting as agent for the donors," the commission found.

"At all time they were the true donors and their details should have been disclosed by themselves and the party if the sums involved made them 'major political donors'."

<http://www.smh.com.au/nsw/nsw-liberals-concealed-illegal-donors-before-2011-election-win-20160323-gnpsn6.html>