

Why Arthur Sinodinos fails the pub test

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ARTHUR SINODINOS UNDER PRESSURE

There are calls for the Senator to step down after questions were raised about the source of millions of dollars of donations to the NSW Liberal Party. Courtesy ABC News24.

When a Queanbeyan-based Liberal Party official rang the party's head office in Sydney prior to the 2011 NSW election, he had some good news and some bad news.

The good news was he had a potential \$20,000 donation for the party. The bad news was that it came from an "illegal" donor as property developers had been banned from donating to NSW political parties since late 2009.

But the NSW head office told Wayne Brown, a country representative of the party's state executive, that it wasn't a problem.

"They said developers have to donate to the Free Enterprise Foundation ... that's the only way they can actually donate," Mr Brown told the Independent Commission Against Corruption in 2014.

What was even more astonishing was that Mr Brown had to drive the cheque to Sydney, rather than driving the short distance to Canberra, where the FEF was based.

Mr Brown personally handed it to Liberal Party finance director Simon McInnes, who "took one look at it" and passed it over the party's chief fundraiser, Paul Nicolaou.

This week a series of payments made by the FEF to the NSW division of the Liberal party suddenly thrust the organisation back into the national spotlight.



Senator Arthur Sinodinos outside Parliament House in Canberra. *Photo: Alex Ellinghausen*

In an explosive finding, the NSW electoral commission found it had graduated from providing privacy for donors to accommodating illegal contributions by "washing" them through the yawning governance gap in state and federal donations laws.

The ruling not only saw the NSW Liberal Party threatening to take the commission to the Supreme Court but also raised fresh questions about the involvement of one of Prime Minister Malcolm Turnbull's most trusted advisors, cabinet secretary Senator Arthur Sinodinos.

Property developers can donate federally and this was the beauty of the Canberra-based FEF. Money could be donated there. But it was illegal for those donations to be sent back to NSW to be used for a state campaign.

The list of donors to the FEF reads like a who's who of Australian business: Frank Lowy's Westfield; Harry Triguboff's Meriton Apartments; Walker Group; Village Roadshow; and Austral Bricks.

Five years ago, they helped pour more than \$1 million into the accounts of the secretive ACT organisation.

If you have never heard of the FEF, you are far from alone. Despite its high profile contributors, The FEF and its trustee, accountant Anthony Bandle, do not seek the limelight. But it is fair to say the FEF is one of the more intriguing players in Australian politics in recent years.

The FEF has donated millions of dollars to conservative politics over the past 20 years, almost exclusively to the Liberal party.

This week the electoral commission deemed that the NSW Liberal party was complicit in relation to its use of the FEF to "disguise" the identities of illegal donors to its 2011 state election campaign.

Because of the party's continual refusal to hand over the identities of the donors, the electoral commission has withheld almost \$4.4 million in public funding.

This has sent shock waves through the party. Through lawyers, the party wrote to the commission saying this funding was "of critical importance" and if it was not received by the end of April retrenchments were likely.

It was also pointed out that a looming federal election meant the funding was required as "a matter of urgency".

If the funding was not forthcoming, the party would have the commission hauled before the Supreme Court, the letter threatened.



NSW Premier Mike Baird in his office at State Parliament. *Photo: Nic Walker*

Premier Mike Baird has since been more conciliatory suggesting that head office should bite the bullet and reveal the donors

Also coming out fighting is Malcolm Turnbull's hand-picked cabinet secretary, Senator Arthur Sinodinos, who was the party's treasurer at the time of the payments.

Sinodinos has demanded the electoral commission excise any mention of him in its damning report, claiming that the party's current refusal to nominate the donors has nothing to do with him.

But the commission said it based its finding on evidence given to the ICAC's landmark 2014 investigation into NSW Liberal party fundraising.

The allegations of questionable donations to the party have dogged Sinodinos ever since his string of "don't recalls" and "don't recollects" reverberated through the hearing room during ICAC's Operation Spicer inquiry.

Under oath, Sinodinos, the party's honorary treasurer and finance committee chairman, refused to accept "any responsibility for money being raised from prohibited donors" who were encouraged to donate via the FEF.

Instead he claimed it was the responsibility of the party agent, finance director Simon McInnes to ensure all was above board, and that it was not his role to "micro-manage" others.

The corruption inquiry heard that the FEF was the single largest donor to the party in the lead-up to the 2011 state poll, giving \$700,000. At the 2007 election, held prior to the developer donation bans, the FEF had contributed a mere \$50,000.

"What about this for a pub test: the chairman of the finance committee of the Liberal Party didn't know the identity of the single largest donor to the Liberal Party in an election campaign. What do you think about that?" asked counsel-assisting Geoffrey Watson, SC. Sinodinos repeated his claim "that the responsibility for compliance rested formally with the Party agent."



Paul Nicolaou arrives at the ICAC inquiry for questioning into his dealings with Australian Water Holdings. *Photo: Rob Homer*

Paul Nicolaou, the party's former chief fund-raiser, told the inquiry that Sinodinos was chairing a finance committee meeting in 2010 when the idea of washing illicit donations through the FEF was first raised.

Sinodinos said that if he had been present when this was floated "it went over my head".

His evidence, in which he denied any knowledge concerning the unlawful channelling of developer donations to the state party through the FEF, had come after his previous embarrassing testimony about his lack of knowledge of huge donations to the party coming from Australian Water Holdings when he was deputy chairman and later chairman of the company.

"Did you know at the Liberal Party end in your capacity as Treasurer that Australian Water Holdings was making donations to the Liberal Party?"

"Not that I can recollect at the time."

"Does that mean you may have been told that you've since forgotten it?"

"I cannot recollect one way or the other."

"Does that suggest to you that you did not know that the company of which you were Deputy Chairman was making donations to the political party of which you were Treasurer?"

"It was not a process I involved myself in."

Apart from washing developer donations, the FEF has also been used as the vehicle of choice for high profile donors who would prefer that their generous contribution to the party not be the subject of prying media eyes.

In April 2013, the Australian television legend Reg Grundy and his wife Joy Chambers-Grundy gave \$200,000 to the FEF before that year's federal election.

The Grundy's chose to use their Monaco-based company, Akira Investments Ltd, to make the payment, thus disguising their role.

When the link emerged, a spokesman for the couple explained they were directed to make the donation through the Free Enterprise Foundation by then Liberal Party federal director Brian Loughnane in order to "maintain their privacy".

During Operation Spicer ICAC zeroed in on five donations made to the NSW Liberals during 2010-11.

In its return to the NSW electoral commission for that year, the party disclosed the payments from the Free Enterprise Foundation in the amounts of \$94,000, \$171,000, \$64,000, \$358,000 and \$100,000.

In its return to the Australian Electoral Commission of that year, the FEF disclosed it had received \$1.1 million worth of donations.

Among them was \$100,000 from Village Roadshow, \$50,000 from Meriton Apartments, \$275,000 from Austral Brick Company, \$150,000 from Westfield, \$100,000 from Walker Group Holdings.

But the payments to and from the FEF do not necessarily match.

This would not be a problem if, as the Liberal party has argued, it is perfectly legal for the FEF to donate money to a state campaign.

But the electoral commission ruled the FEF was not a charitable trust which can accept "gifts" not classified as political donations.

Rather, it said payments made to the FEF are political donations and so when those funds are donated on to the NSW Liberal Party, the party must declare the name of the original donor.

This is disputed by the party and the FEF, but the ruling means the NSW Liberals are required by state law to disclose the names of the original donors to state election funding authorities, which they have not.

The NSW electoral commission has determined this is a breach of the NSW Election, Funding, Expenditure and Disclosure Act.

But due to a three-year statute of limitations the commission is unable to prosecute the party.

So it has used its powers to withhold campaign and administrative funding claimed by the party from the 2015 state election to force it to comply.

This could not have come at a worse time for the Liberal Party.

The questions remain as to whether the prospect of losing more than \$4 million in funding, on the eve of a federal election, is enough of an incentive for the party to reveal the names of the mysterious donors and will Sinodinos, a key member of the Prime Minister's inner circle, survive fresh calls for him to stand aside.

<http://www.smh.com.au/nsw/why-arthur-sinodinos-fails-the-pub-test-20160325-gnr0vo.html>