

Members

Hon Andrew McGechan (President)
Chief Judge Joe Williams (Maori Land Court)
Ms Belinda Clark (Secretary for Justice)
Dr Helena Catt (Chief Executive)

Dated: 12 June 2008

Decision Number: 2008-08

Initiated by
BLAIR MULHOLLAND

In relation to
Election advertisements
GREEN PARTY OF AOTEAROA NEW ZEALAND

Findings and Determination

Posters posted on a fence in Auckland promoting the Green Party did not display promoter statements. The posters were authorised by the financial agent of the Green Party and in their original form all contained promoter statements. No offence committed because the financial agent did not wilfully contravene the Act.

No offence committed under sections 63(4) or 65(4) of the Electoral Finance Act 2007 because the financial agent did not wilfully publish, or cause or permit to be published, an election advertisement in contravention of sections 63 or 65.

This headnote does not form part of the decision.

Subject

Three posters displayed on a fence in Morningside, Auckland, promoting the Green Party.

Photographs of the posters submitted to the Electoral Commission indicate there is no promoter statement on any of the posters.

Issues raised

The Electoral Commission considered whether:

- the posters are election advertisements within the meaning of the Electoral Finance Act 2007 and, if so, they contain promoter statements as required by the Act
- any offence has been committed.

Electoral Finance Act 2007

Section 5 of the Act defines an election advertisement to be, in summary, any form of words and/or graphics that could reasonably be regarded as encouraging or persuading voters to vote or not to vote in a particular fashion.

Section 63 of the Act requires any election advertisement published during the regulated period to contain a statement of the name and address of the promoter of the advertisement.

Section 65 applies both within the regulated period and at other times, but only to election advertisements that encourage voters to vote in favour of the subject of the advertisement. This section also requires such election advertisements to contain a statement of the name and address of the promoter of the advertisement.

Sections 63(4) and 65(4) provide that it is an offence to wilfully contravene either of the above requirements.

Comments from Green Party of Aotearoa New Zealand

The financial agent for the Green Party provided a written explanation including that:

- the location has been checked and there are currently no Green Party posters on display at the location in Morningside
- the photos submitted all appear to have the promoter statement removed or covered over, and are not in the original state in which they were printed and published
- the line "Support the Greens. Buy the t-shirt" on the posters has also been removed
- the Party did not publish, or cause or permit to be published, an election advertisement that was not duly authorised by the Green Party's financial agent

The financial agent also provided the original artwork prints for the posters.

Electoral Commission's Determination

The Electoral Commission has considered the requirements of the Act along with the items listed as exhibits (below).

Sections 63 and 65 provide that a promoter must not *publish, or cause or permit to be published, an election advertisement* unless the requirements of those provisions are met, including that the advertisements contain a promoter statement.

The Electoral Commission noted that:

- the artwork prints submitted by the financial agent all contain promoter statements by Jon Field, the financial agent for the Green Party, and satisfy the requirements of the Act
- the submitted photographs of the posters on the fence do not contain the lower portion of the posters, which includes the promoter statement and the words "Support the Greens. Buy the t-shirt".

Section 63(4) and section 65(4) provide that *every promoter is guilty of an illegal practice who wilfully contravenes* section 63(2) or section 65 respectively.

The Electoral Commission accepts the financial agent's explanation that the posters displayed in the photographs do not appear in the form authorised by him and are not currently displayed at the location in question. As a result, the Commission formed the view that on this occasion the Green Party financial agent did not wilfully publish, or cause or permit to be published, an election advertisement in contravention of section 63 or 65.

For the above reasons it is the view of the Electoral Commission that the financial agent of the Green Party of Aotearoa New Zealand did not commit an offence for the purposes of section 63 or section 65 of the Electoral Finance Act 2007

Signed for and on behalf of the Electoral Commission



Dr Helena Catt
Chief Executive and Commissioner
New Zealand Electoral Commission

27 June 2008

Exhibits

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

- 1 Email from Blair Mulholland
- 2 Photographs of the posters on the fence
- 3 Email from the financial agent of the Green Party of Aotearoa New Zealand
- 4 Original artwork prints for the posters