



**CORRUPTION AND CRIME COMMISSION  
OF WESTERN AUSTRALIA**

**REPORT ON AN INVESTIGATION  
INTO ALLEGED MISCONDUCT:**

**THE NOMINATION OF MS CHOY CHAN MA AS A  
CANDIDATE FOR ELECTION TO THE SEAT OF RIVERTON  
IN THE STATE ELECTION OF 26 FEBRUARY 2005**

*May 2005*

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**CORRUPTION AND CRIME COMMISSION  
OF WESTERN AUSTRALIA**

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President  
Legislative Council  
Parliament House  
PERTH WA 6000

Hon Fred Riebeling MLA  
Speaker  
Legislative Assembly  
Parliament House  
PERTH WA 6000

Dear Mr President

Dear Mr Speaker

In accordance with section 84 of the Corruption and Crime Commission Act 2003 I am pleased to present the report of the Commission of an investigation into the nomination of Ms Choy Chan Ma as a candidate for election to the seat of Riverton in the state election of 26 February 2005.

The assessments, opinions and recommendations in this report are those of the Commission.

I provide the report to be laid before each House of Parliament forthwith or be dealt with under section 93 of the *Corruption and Crime Commission Act 2003*.

Yours sincerely



Kevin Hammond  
COMMISSIONER

6 May 2005

## Complaint

On 25 February 2005 the Corruption and Crime Commission (the Commission) received a complaint from the Liberal Party of Western Australia about the nomination of Ms Ma as a candidate for the seat of Riverton in the state election of 26 February 2005. The letter of complaint referred to an article in *The West Australian* newspaper of that day, which made the following claims:

- Ms Ma had been misled into running as an Independent candidate with her preferences being directed to Mr McRae MLA.
- At the time of signing it, Ms Ma had mistakenly believed that a nomination form she signed in Mr McRae's electorate office related to her volunteering to work as an interpreter.
- Ms Ma did not know who paid the \$250 fee to nominate her as a candidate.
- Ms Ma was unaware that a how to vote card had been printed in her name.
- Ms Ma had not authorised advertisements that appeared in a local newspaper.

The tenor of the letter and newspaper article was that Mr McRae was responsible for allegedly misleading Ms Ma.

## Investigation

The Commission's jurisdiction is limited to dealing with misconduct by public officers, as defined by section 4 and section 1 of the *Corruption and Crime Commission Act 2003* (the Act).

For the purposes of the Act Mr McRae and staff employed in Mr McRae's electorate office are public officers. Campaign staff and volunteers are not public officers.

Pursuant to section 32 of the Act the Commission is required to assess allegations and form opinions as to whether misconduct has or may have occurred; is or may be occurring; is or may be about to occur; or is likely to occur. The Commission may conduct an investigation in order to form such an opinion, and did so in this particular matter.

The Commission's investigation involved the following:

- Service of a Notice pursuant to section 95 of the Act on the Acting Electoral Commissioner and receipt of the Electoral Commission's records in relation to the nomination of Ms Ma.
- Interview of Mr A<sup>1</sup>, an employee of the Electoral Commission.
- Two interviews of Ms Ma.
- Receipt of various documents from Ms Ma.

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<sup>1</sup> Aside from those people who have already been named publicly, this report does not refer to the people involved by name. The Commission has carefully considered whether to name these people and notes both that none of them are public officers and that none took on any public roles during the election campaign. In the circumstances the Commission has formed the view that their right to privacy outweighs the public interest in them being named.

- Interview of Mr Everingham, State Director of the Liberal Party of Western Australia.
- Interview of Mr Sin, authorising officer for how to vote cards and an advertisement on behalf of Ms Ma.
- Interview of Mr B, a campaign volunteer for Mr McRae.
- Interview of Mr C, a businessman who funded Ms Ma's election campaign.
- Interview of Mr D, returning officer for the seat of Willetton.
- Interview of Ms E, an employee at Mr McRae's electorate office.
- Service of a Notice pursuant to section 95 of the Act on Mr McRae and receipt of records in relation to the nomination of Ms Ma.
- Service of a Notice pursuant to section 94 of the Act on Mr McRae and receipt of a statement of oral information from Mr McRae.

Pursuant to section 86 of the Act, prior to its release, a draft report of this matter was forwarded to Ms Ma to provide her with the opportunity to make representations. She made the following representations:

- *She did not understand the nature of her candidacy or nomination;*
- *It does not follow from this that she was misled. She has never asserted that she was misled.*

## The Facts

There is broad agreement between those involved in this matter as to the facts, which the Commission understands to be as follows:

- On 5 January 2005 Mr McRae wrote to constituents advising that he would be door knocking in their area in the coming weeks. The letter contained Mr McRae's contact details, including an e-mail address.
- Ms Ma received one of these letters, as well as a door knock card indicating that Mr McRae had knocked on her door when she was out.
- On 8 January 2005 Ms Ma responded to this material by sending an e-mail to Mr McRae. The e-mail included the following comments  
*"...We appreciate the hard work that you are doing and hope to support you in your course (sic) in any way..."*
- On or about 31 January 2005 Mr McRae responded to the e-mail by ringing Ms Ma. Ms Ma expressed an eagerness to assist Mr McRae and they agreed to meet.
- On 3 February 2005 Mr McRae, Mr B and Ms E met Ms Ma at her home. At the meeting Ms Ma reiterated her eagerness to assist Mr McRae.
- Mr McRae, Mr B and Ms E say that the discussion turned to the possibility of Ms Ma running as an independent candidate, including the implications for her of standing for election. Ms Ma does not deny this, but says that although she did not properly understand this aspect of the conversation she responded by reiterating her eagerness to assist.

- Ms Ma completed and signed a nomination form. Ms Ma acknowledges that, with the possible exception of the words *Riverton* and *26<sup>th</sup> February 2005*, and a receipt completed by the returning officer, the form is entirely in her own handwriting. Ms Ma says that in her eagerness to assist Mr McRae she did not properly comprehend the form when she completed it.
- Mr McRae says that he subsequently asked Ms Ma to direct her preferences to him and she agreed to do so. Ms Ma does not deny this, but says that although she did not properly understand this aspect of the conversation she responded by reiterating her eagerness to assist.
- Mr B then took ten photographs of Ms Ma and undertook to run her campaign. Ms Ma says that she thought the photographs were being taken for identification purposes.
- Ms E gave Ms Ma a candidate's information booklet. Ms Ma acknowledges receipt of the booklet. She says that she flipped through the booklet several days later but did not fully understand its implications.
- In relation to Ms Ma's level of understanding at this meeting, the Commission notes the following:
  - On her own account, even though she did not fully understand the implications of her conversation with Mr McRae, her eagerness to assist likely gave the impression that she did.
  - Ms Ma says that she was not misled by Mr McRae, Mr B or Ms E.
  - Ms Ma is a registered nurse, who reads written instructions and dispenses medication.
  - Ms Ma speaks and writes fluent English.

- Items of correspondence provided by Ms Ma and her interviews with Commission officers do not highlight any apparent difficulties on her part in comprehending written or spoken forms of English.
  - After the meeting Mr McRae provided Mr B with Mr C's details and subsequently Mr B contacted him.
  - Mr C agreed to fund Ms Ma's campaign and provided Mr B with \$1,750 for that purpose. Two hundred and fifty dollars was used to pay Ms Ma's nomination fee and the remainder used for the advertisement and how to vote cards.
  - Mr C's decision to fund the campaign was apparently based on his personal views about the political campaign that was then underway by the Australian Nursing Federation (ANF). Mr C claims he is not affiliated to any political party, but says he makes donations to both major political parties from time to time.
  - Some time later Mr McRae also provided Mr B with Mr Sin's details. Mr Sin and Ms Ma have known each other since childhood and Mr Sin arranged to authorise her advertisement and how to vote card.
  - Prior to placing the advertisement and finalising the how to vote cards, Mr B says that he showed them to Ms Ma. That he did so is not conceded by Ms Ma. However, in all the circumstances of the matter the Commission is inclined to accept Mr B's account.
  - A few days after the meeting of 3 February 2005 Ms Ma was contacted by an official of the ANF after the official had seen Ms Ma's name as a candidate on the Electoral Commission website. Ms Ma says that she realised

that she was standing for election upon receipt of this telephone call.

- On 9 February 2005 Ms Ma met with another person associated with the ANF at the ANF office. A discussion took place about Ms Ma's candidacy, but she did not seek to withdraw it at that time.

- On 16 February Ms Ma attended Mr McRae's electorate office and spoke with Ms E, asking her if she had to do anything further. Ms E told her that she did not and that everything would be over on 26 February 2005.

- On 18 February 2005 Ms Ma sent an e-mail to Ms E. The e-mail refers to her surprise at the size of the advertisement that appeared in the local newspaper and other issues associated with her candidacy. The e-mail indicates that, by this stage, Ms Ma had become deeply concerned about her candidacy.

- On 23 February Ms Ma again met with a person associated with the ANF at the ANF office. After discussion with this person Ms Ma decided to withdraw her candidacy and wrote to the Electoral Commission accordingly.

- On 24 February 2005 Ms Ma sent an e-mail to Mr McRae. The e-mail advises that she had written to the Electoral Commission in an effort to withdraw her candidacy. As well as apologising to Mr McRae the e-mail comments *...I have not blamed anyone for the situation I am in. Except I blame myself for walking into things I know very little about...*

## Opinion

Based on these facts the Commission has formed the view that there is no evidence of any impropriety of any sort on the part of Mr McRae or Ms E, the only two public officers involved in the matter. If Ms Ma did not understand what she was doing when she completed the nomination form, she gave every impression to the contrary. Mr McRae and Ms E quite reasonably interpreted her actions as indicating that Ms Ma knew that she was completing a nomination form and wanted to do so.

It appears to the Commission that Ms Ma changed her mind about her candidacy on or about 18 February 2005. On Ms Ma's own account this was some 12 or so days after she realised with clarity that she was a candidate - after being told so by an ANF official on or about 6 February 2005.

In the circumstances, the Commission has formed the opinion that there was no misconduct involved in the nomination of Ms Ma as a candidate for election to the seat of Riverton in the state election of 26 February 2005.