

Secretary's Department

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In reply please quote *SD*
Filename *document2*

28 September 2004

Mr/Ms W Meehan
6 Juvenis Avenue
OYSTER BAY 2225

Dear Sir/Madam

We refer to an election brochure headed "Under Labor, you may need to find an extra \$962.34 every month just to keep your home" which we understand is being circulated in certain electorates in the southern suburbs of Sydney and which it is stated has been authorised by you.

At the bottom of the brochure the following words appear "*Source: Reserve Bank of Australia" without any indication as to which part of the text the asterisk refers.

We are most concerned that this could give the impression that the RBA has endorsed the brochure, when in fact it has not. This view is reinforced by the fact that members of the public have contacted the Bank seeking explanation of the claims in the brochure. Please ensure that no further distribution of the brochure occurs.

Yours faithfully



DH Emanuel
Secretary



27 Sep 2004

Australian Electoral Commission / AEC

AEC Ref: pams7480~04/1836~complaint

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Mr David H. Emanuel
Secretary
Reserve Bank of Australia
65 Martin Place
SYDNEY NSW 2001

AG 21/9

Dear Mr Emanuel

Commonwealth Electoral Act 1918 – s 329 – Complaint

I refer to your facsimile of 17 September 2004 and letter of 20 September 2004 concerning the distribution of an advertisement titled, "Under Labor, you may need to find an extra \$962.34 every month just to keep your home." Your letters raised a concern about the words appearing at the bottom of the advertisement, which state, "*Source: Reserve Bank of Australia". You suggest that there is no indication as to what part of the text the asterisk refers, which gives the impression that the Reserve Bank of Australia (RBA) endorsed the whole of the advertisement.

The Australian Electoral Commission (AEC) has considered the application of s 329 of the *Commonwealth Electoral Act 1918* (the CEA) to the advertisement to determine whether there has been any breach of electoral law.

Section 329 relates to misleading or deceptive electoral publications and provides that:

A person shall not, during the relevant period in relation to an election under this Act, print, publish or distribute, or cause, permit or authorize to be printed, published or distributed, any matter or thing that is likely to mislead or deceive an elector in relation to the casting of a vote.

The AEC advises that this provision of the CEA has been narrowly construed by the courts to only apply to a publication that is likely to mislead or deceive a voter in relation to the recording of a vote as distinct from forming a judgment as to the person for whom to vote: *Evans v Crichton-Browne* (1981) 147 CLR 169; *Webster v Deahm* (1993) 116 ALR 222. That is, this provision would apply, for example, to the distribution of a how-to-vote card, which misleads an elector about marking a ballot paper and depositing it in the ballot box. In coming to this conclusion in *Evans v Crichton-Browne*, the Court indicated that it would be reluctant to find that s 329 has been breached by conduct that is more appropriately covered by the electoral process. Please note that s 329 does not regulate the truthfulness or accuracy of electoral publications.

Consequently, in line with *Evans v Crichton-Browne* and previous advice of the Commonwealth Director of Public Prosecutions, the AEC is of the view that the advertisement could not be mistaken for a how-to-vote card or any other literature affecting the casting of a vote in a manner amounting to a contravention of s 329(1).

The AEC appreciates the Bank's concern but the material complies with the requirements of authorisation provided in s 328 of the CEA and does not appear to breach any other provisions. Perhaps the most suitable remedy in this case would be to contact the authoriser of the material (W. Meehan of 6 Juvenis Avenue, Oyster Bay 2225) and discuss the matter directly with them.

Thank you for your enquiry.

Yours sincerely



Paul Dacey
Deputy Electoral Commissioner

23 September 2004



RESERVE BANK OF AUSTRALIA

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Secretary's Department

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In reply please quote *SD*

20 September 2004

Mr Damian O'Leary
Australian Electoral Commission
PO Box 6172
KINGSTON ACT 2604

Dear Mr O'Leary

I refer to our discussion late last week and enclose a copy of the flyer which we are most concerned about.

As you can see, it contains the words “*Source: Reserve Bank of Australia” without any indication as to what in the text the asterisk refers to.

In fact, there is no other affiliation indicated on the card and so the Reserve Bank is concerned that people could mistakenly interpret the message as being somehow endorsed by the Bank.

We ask that you take action to prevent further circulation of such material.

Yours sincerely

A handwritten signature in cursive script that reads "David Emanuel".

DH Emanuel
Secretary

**Under Labor, you may need to find an extra
\$962.34 every month just to keep your home.**

Home loan interest rates are still at their lowest levels in 30 years, at around 7.05% (7 April 2004) - making it that much easier to pay off the family home. But mortgage rates have not always been this low. Under Labor, rates hit a massive 17% causing many Australians to lose their homes.

When Labor was last in government, mortgage rates averaged 12.75%. If Labor gets back into government and puts interest rates back up to 12.75%, it will mean the **extra interest** on the average \$202,700 loan will be \$1,548.08 per year - or \$962.34 every single month!

The last thing we can afford is Labor's high home loan interest rates.

• Source: Reserve Bank of Australia

**HOME LOAN
INTEREST RATES
ARE ALWAYS
HIGHER UNDER
LABOR!**

Printed by W. Meehan & Juvenis Avenue, Oyster Bay 2225
Printed by U.S. Print Express 21 Marshall Road, Maribee 2222



\$962.34 every month