



File: VE 02320
Contact: J. Nellor
Phone: 9285 7142
Fax: 9285 7149

Jeff Lapidos
Secretary
Taxation Officers Branch ASU
116 Queensbury Street
CARLTON SOUTH VIC 3053

Fax: 9347 8781

Dear Sir,

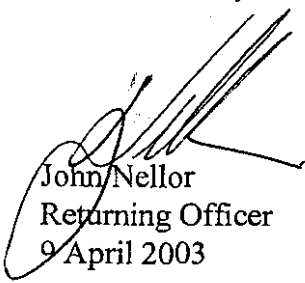
AUSTRALIAN SERVICES UNION
TAXATION OFFICERS BRANCH
RESULT OF ELECTION – E NO. 38 of 2003

Notice of the result of the election is attached. The results have been declared 14 days after the close of nominations in accordance with ASU Rule 43. a.

The election for the Taxation Officers Branch is now complete.

The Australian Electoral Commission welcomes your written comments regarding the conduct of this election including any matters that concern your rules or the conduct of future elections.

Yours faithfully



John Nellor
Returning Officer
9 April 2003

Copy to:

The Industrial Registrar, Principal Registry, GPO Box 1994S, MELBOURNE VIC 3001

Australian Municipal, Administrative, Clerical and Services Union
Taxation Officers Branch

DECLARATION OF RESULTS

Results of the election for the following offices conducted in accordance with Section 214 of the Workplace Relations Act 1996 and the rules of the organisation.

Branch President

Candidates

CHAPLIN, Peter Ross

Deputy Branch President

Candidates

PESTEN, Anna

Branch Secretary

Candidates

LAPIDOS, Jeff

Assistant Branch Secretary

Candidates

SOUTHERN, Geoffrey Allan

Branch Treasurer

Candidates

MEYNELL, Keith Albert

Branch Councillor - Senior Officers Sub Branch

Candidates

HINDS, David Henry

Branch Councillor - Central Sub Branch

Candidates

BUCHTHAL, Geoffrey

Branch Councillor - Southern Sub Branch 2

Candidates

FTOHOGIANNIS, John
GOODWIN, Christine

National Conference Delegate 3

Candidates

CHAPLIN, Peter R
LAPIDOS, Jeffrey
MEYNELL, Keith

National Executive Representative 2

Candidates

CHAPLIN, Peter Ross
LAPIDOS, Jeffrey

Alternate National Executive Representative

Candidates

SOUTHERN, Geoffrey Allan

First Alternate National Conference Delegate

Candidates

SOUTHERN, Geoffrey Allan

Second Alternate National Conference Delegate

Candidates

BUCHTHAL, Geoffrey

As the number of nominations accepted did not exceed the number of positions to be filled, I declare the above candidates elected.



John Mellor
Returning Officer

9 April 2003



AUSTRALIAN INDUSTRIAL REGISTRY

Level 35, Nauru House
80 Collins Street, Melbourne, VIC 3000
GPO Box 1994S, Melbourne, VIC 3001
Telephone: (03) 8661 7777
Fax: (03) 9654 6872

Mr. J. Lapidos
Branch Secretary
Australian Municipal, Administrative, Clerical and Services Union
Taxation Officers Branch
116 Queensberry Street
CARLTON SOUTH VIC 3053

Dear Mr. Lapidos,

**Arrangement for the conduct of an election in accordance with
section 214 of the Workplace Relations Act 1996
(E2003/38)**

A copy of the Registrar's decision in relation to the above matter is enclosed.

Any enquiries in relation to the conduct of the subject election should be directed in the first instance to the Australian Electoral Commission, Victoria, telephone :
(03) 9285 7150.

Yours sincerely,

Larry Powell
Statutory Services Branch

12 March 2003



AUSTRALIAN INDUSTRIAL REGISTRY

Level 35, Nauru House
80 Collins Street, Melbourne, VIC 3000
GPO Box 1994S, Melbourne, VIC 3001
Telephone: (03) 8661 7777
Fax: (03) 9654 6672

Mr. Paul Slape
National Secretary
Australian Municipal, Administrative, Clerical and Services Union
Ground Floor
116 Queensberry Street
CARLTON SOUTH VIC 3053

Dear Mr. Slape,

**Re: Victorian Private Sector Branch and the Victorian Authorities and Services Branch
R2002/220, E2003/29 and R2003/13**

I refer to my letter dated 11 February 2003 regarding receipt of a number of notifications lodged under section 214 of the Workplace Relations Act 1996 for arrangements to be made with the Australian Electoral Commission for the conduct of elections within various branches of the Australian Municipal, Administrative, Clerical and Services Union (the ASU).

I have since received correspondence from Ryan Carlisle Thomas, Lawyers, and Mr. William Jacomb about the matter.

With the exception of the notifications from the Victorian Private Sector Branch and the Victorian Authorities and Services Branch, I have today made arrangements for the conduct of the elections within the branches of the ASU.

It is my view that the nature of the appeals lodged in the Australian Industrial Relations Commission against my earlier decisions in respect of alterations of the rules of the ASU prevent me from considering the notifications lodged by the abovementioned Victorian branches until determination of the appeals by the Commission.

For the same reason, I am unable to consider the alterations lodged to the rules of the Victorian Private Sector Branch.

Should you wish to discuss the matter in the meantime, please contact Mr. Clency Lapierre on (03) 8661 7787.

Yours sincerely,


Terry Nassios
Deputy Industrial Registrar
24 February 2003

cc: Mr. Orm Thomas
cc: Mr. William Jacomb
cc: Mr. Neil Kean

PR 928182

WORKPLACE RELATIONS ACT 1996
s.214 arrangement for conduct of an election

Australian Municipal, Administrative, Clerical and Services Union
(E 2003/38)

T. NASSIOS
DEPUTY INDUSTRIAL REGISTRAR

MELBOURNE, 12 MARCH 2003

DECISION

On 26 February and 11 March 2003, the Taxation Officers Branch of the abovementioned organisation lodged in the Industrial Registry the prescribed information in relation to an election for the following offices:

Branch President
Deputy Branch President
Branch Secretary
Assistant Branch Secretary
Branch Treasurer
Branch Councillors from each of the following Sub-Branches:

Senior Officers' (1)
Central (1)
Southern (2)

National Conference Delegates (3)
National Executive Representatives (2)
Alternate National Executive Representative
First Alternate National Conference Delegate
Second Alternate National Conference Delegate

I am satisfied that an election for the abovementioned offices is required to be held under the rules of the organisation and, under subsection 214(2) of the Workplace Relations Act 1996, I am making arrangements for the conduct of the election by the Australian Electoral Commission.



**William Jacomb & Associates
PC & Mac Support Specialists**

**3/24 Straw Street, WEST BRUNSWICK VIC 3055
Phone: 9388 0073 fax: 9388 0075 Mobile: 0414 724 565
Email: wjacomb@connexus.net.au**

Thursday, 20

To:

**Clance Lapierre
Australian Industrial Relations Commission
9654 6672**

From:

William Jacomb

Number Of Pages In Transmission: 6

Regarding: Reasons Why it Would Be Unsound To Hold ASU

Coversheet Message:

3/24 Straw Street
WEST BRUNSWICK VIC 3055

19 February 2003

Mr T. Nassios
Deputy Registrar
Australian Industrial Relations Commission
Naru House
80 Collins Street
MELBOURNE VIC 3000

References: **C2003/376** - Appeal against the Decision Of
Deputy Industrial Registrar Nassios At Melbourne 8
January 2003 to issue a certificate of Rule change

Your letter dated 11 February 2003 to P.Slape, National
Secretary, Australian Services Union re Notification to
hold various ASU Elections

**AUSTRALIAN INDUSTRIAL RELATIONS
COMMISSION - Industrial Relations Commission
Decision 93/1991**- approval of submission of
amalgamation to ballot The Municipal Officers'
Association Australia and Australian Transport Officers
Federation and The Technical Service Guild of Australia
(D No. 30016 of 1990)

International Convention on the Elimination of All
Forms of Discrimination Against Women

Sexual Discrimination Act 1984 (As amended)

2 /

Dear Deputy Registrar Nassios,

**Why it Would be Improper & Unlawful To Hold ASU Union Elections
At This Time**

Thank you for allowing me to inspect the registry file this afternoon.

As I expected there was a response from the ASU which they had failed to copy to myself.

I believe that the ASU has failed to bring to your attention the key issues which would affect your decision and in their focusing on the Victorian Services

The key elements are:-

- It is unlawful under Section 19, of the Sexual Discrimination Act 1984 as amended for a Registered Organisation to discriminate against a person on the basis of sex by amongst other things:-
 - by denying the member access, or limiting the member's access, to any benefit provided by the organization;
 - by depriving the member of membership or varying the terms of membership; or
 - by subjecting the member to any other detriment

- In **(D No. 30016 of 1990)**, Deputy President Moore made a clear finding of fact with regards the gender discrimination proposed in the rules at the time that :-

*It is probably unnecessary to explain in detail why I have reached this conclusion as I am satisfied that s.33 most likely operates to nullify the effect s.19 would otherwise have. The benefits that the male members are denied are the right to stand and vote for a position on the Executive (either Branch or National). The expression "... or limiting ... access to a benefit" in State anti-discrimination legislation has been liberally construed.(7) I see no reason why this expression should not also be given a broad meaning as it appears in s.19 of the SDA. By virtue of their sex, male members cannot participate in an election relating to a position within the organisation. It is a position which forms part of a body that can determine matters of policy concerning the organisation or a branch (and therefore policy affecting male members). Even though male members may participate in the election of all other members of that body, their rights are more limited than those of female members in determining who sits on that body. Further, their rights to be elected to sit on the body are also more limited. **In those circumstances it seems to me that male members are, on the grounds of their sex, denied access to a benefit in relation to the particular position, or expressing it slightly differently, their access to a benefit is limited if one looks at the election of the body as a whole. The relevant benefit is the right***

Why it Would be Improper & Unlawful To Hold ASU Union Elections At This Time

3 /

to stand and to vote which is provided by the organisation through its rules.

Thus prima facie such rules are in violation of Section 19, of the Sexual Discrimination Act.

- Article 4 of the International Convention on the Elimination of All Forms of Discrimination Against Women does permit :-

*Adoption by States Parties of **temporary** special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.*

Why it Would be Improper & Unlawful To Hold ASU Union Elections At This Time

4 /

I submit that 12 years of **permanent** sexual discrimination against men was not envisaged by Deputy President Moore when he initially made a determination relying upon Section 33 (now 7 D) of the Sexual Discrimination Act.

Nor, is it I submit, what was envisaged as the definition of **"Temporary Special Measure"** within the meaning of the **International Convention on the Elimination of All Forms of Discrimination Against Women** upon which Section 7D is based.

- The current membership of the various elected bodies of the Australian Services Union by females, and their current membership of the Australian Services Union, that the "the need for equality in fact as well as in law" which Deputy President Moore relied upon his decision has been more than well and truly achieved.

I should also mention that the Australian Services Union, tendered to Deputy President Moore, in support of its application, a report it had commissioned that itself said that the reason why more females were not seeking election to Office was not the rules but encouragement by the union and Child Care. An issue that the Australian Services Union has quite properly well addressed.

- Furthermore, the Australian Services has not at any time in the years subsequent to Deputy President Moore's decision ever adduced evidence that the removal of the sexual discrimination in the Rules of the Union would result in the female members of the Union in ceasing to having "equality in fact as well as law"
- It is worth noting that I have been verbally advised by Susan Roberts, Director, Of Legal Human Relations & Equal Opportunity Commission that **no exemption** from the operation of the Sexual Discrimination Act has been **granted** or is in force.

Furthermore, I have given written notice to the Human Right And Equal Opportunity Commission that should the ASU now decide to seek such an exemption, I would of course object to it.

Thus there is no guarantee that the ASU could obtain an exemption at this point.

- Under Section 7 C of the Sexual Discrimination Act, it states that the burden of proving that an Act does not constitute discrimination because of Section 7B **lies on the person who did the act.**

For the Commission to proceed with elections based upon rules that it itself has found discriminate against men would seem to make it a

Why it Would be Improper & Unlawful To Hold ASU Union Elections At This Time

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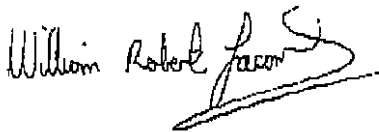
party to both direct and indirect acts of discrimination and such the operation of 7C places the onus on the Commission to prove that it is not.

It is not clear that the immunity Commission has with regards its actions would apply to an unlawful act.

- It would seem that under the Sexual Discrimination Act, that only the
- **Human Rights & Equal Opportunity Commission** could grant an exemption from the Operation of the Act or
 - **Federal Court** could make a determination that Section 7D applies to the rules of the Australian Services Union.

Thus in the circumstances, it would seem that it would be unsound for the Commission to proceed with elections under rules which are sexually discriminatory until such time as C2003/376 is resolved.

Yours Sincerely



(William Jacomb)

cc.

Senior Deputy President Lacy, Australian Industrial Relations Commission

Ms Susan Roberts, Director, Of Legal Human Relations & Equal Opportunity Commission

Why it Would be Improper & Unlawful To Hold ASU Union Elections At This Time

LEVEL 30 TELEPHONE: (03) 9240 1414
NAURU HOUSE FACSIMILE: (03) 9240 1444
80 COLLINS STREET AUSDOC DX 30820
MELBOURNE VICTORIA 3000 WEBSITE: www.rct-law.com.au

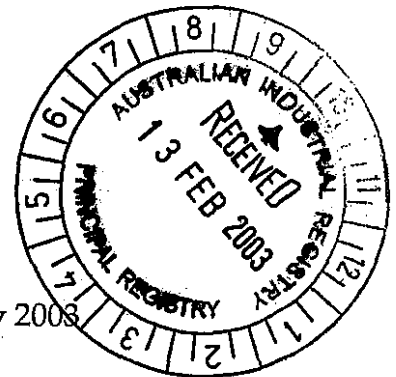
**RYAN
CARLISLE
THOMAS**
LAWYERS

Mr Terry Nassios
Deputy Industrial Registrar
Australian Industrial Registry
Level 35, Nauru House
80 Collins Street
MELBOURNE VIC 3000

YOUR REF:
OUR REF:

OT:MMT

13 February 2003



Dear Deputy Industrial Registrar

Conduct of Elections in the Australian Municipal, Administrative, Clerical and Services Union (ASU)

We act on behalf of the ASU and refer to your letter of 11 February 2003.

We understand that prescribed information for elections to be conducted in the ASU has been lodged with you pursuant to Section 214 of the Workplace Relations Act 1996 (the Act).

We note that these elections relate to all of the branches of the ASU. The appeals to which you refer that is, C2002/6236 and C2003/376 relate or impact only on the following branches: the Victorian Authorities and Services Branch and the Victorian Private Sector Branch whose rules were certified on 8 January 2003.

No stay has been granted in relation to any of the rules changes certified by you.

In the absence of any stay, in our view the provisions of Section 214 and in particular, the provisions of Sub Section 214(2) are mandatory. That is, prescribed information having been lodged on the prescribed day or later day allowed by you, and upon your satisfaction that an election is required to be held under the rules of the organisation or branch, you "shall" arrange for the conduct of the election by the Australian Electoral Commission.

In the present circumstances we submit that the proceedings presently before Vice President Ross should not impinge in any way on your consideration of the above mentioned notifications.

RONALD PEARCE
SIMON GARNETT
LUCY MORGAN
SIMON GUTHRIE
ANGELA SDRINIS
MARK MATER
JOHN KOTSIFAS
ANDREW MCGINDLE
GRAHAM HILL
JOHN ARRANGA
ROHAN ATHERTON
PHILIP GARDNER

Consultants:
ORMOND THOMAS
KEITH WORLAND
RUTH THOMAS
IAN JUPP
CAROL ANDRADES
Senior Legal Executive:
ROSS INGLIS

Associate Legal
Executives:
MICHAEL MITCHELL
ELIZABETH HILL

Offices in:
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DANDENONG
GEELONG
CRANBOURNE
WERRIDEE
PAKENHAM
FRANKSTON
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PERTH
CANNBERRA
HODART

MEMBER FIRM
CERTIFIED
APLA
Australian
Plaintiff Lawyers
Association

Yours faithfully

A handwritten signature in black ink, appearing to read 'Orm Thomas', written in a cursive style.

Orm Thomas
RYAN CARLISLE THOMAS

Direct Line: 9240 1435
Direct Fax: 9240 1437
E-mail: othomas@rct-law.com.au

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**RYAN
CARLISLE
THOMAS**

LAWYERS

Mr Terry Nassios
Deputy Industrial Registrar
Australian Industrial Registry
Level 35, Nauru House
80 Collins Street
MELBOURNE VIC 3000

YOUR REF:
OUR REF: PG:MMT asu

17 February, 2003

Dear Deputy Industrial Registrar

**Conduct of Elections in the Australian Municipal, Administrative, Clerical
and Services Union (ASU)**

We refer to the above matter and our letter of 13 February 2003.

We tried unsuccessfully to contact you by telephone on 14 February 2003.

Our client is concerned that notwithstanding our submissions on its behalf you may be considering deferring the conduct of some or all elections, notwithstanding the lodgement of information under Section 214 of the Act.

We note that nominations are to be called for on 5 March 2003 and our client is deeply concerned at the prospect of any delay in the election process.

We now request that you indicate when you propose making a decision under Section 214 of the Act for the Australian Electoral Commission (AEC) to conduct elections in respect of those elections for which information has been lodged.

Obviously, a delay in making or a failure to make a decision under Section 214 for the AEC to conduct elections has the potential to operate as a de facto stay on the conduct of the elections and our client wishes to avoid such a circumstance. As you would appreciate the issue of a stay in respect of the relevant rules is before Vice President Ross and is not a question with which you are seized.

We respectfully seek your early response. If you wish to discuss the matter, please contact Orm Thomas or Philip Gardner of this office.



RONALD PEARCE
SIMON GARNETT
LUCY MORGAN
SIMON GUTHRIE
ANGELA SDRINIS
MARK MAIER
JOHN KOTSIFAS
ANDREW MCGINDLE
GRAHAM HILL
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SAMANTHA MIKKELSEN

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BRISBANE
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MEMBER FIRM
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Australian
Plaintiff Lawyers
Association

Yours faithfully

A handwritten signature in black ink, appearing to read 'Philip Gardner', written in a cursive style.

Philip Gardner
RYAN CARLISLE THOMAS

Direct Line: 9240 1447
Direct Fax: 9240 1449
E-mail: pgardner@rct-law.com.au



AUSTRALIAN INDUSTRIAL REGISTRY

Level 35, Nauru House
80 Collins Street, Melbourne, VIC 3000
GPO Box 1994S, Melbourne, VIC 3001
Telephone: (03) 8661 7777
Fax: (03) 9654 6672

Mr. Paul Slape
National Secretary
Australian Municipal, Administrative, Clerical and Services Union
Ground Floor
116 Queensberry Street
CARLTON SOUTH VIC 3053

Dear Mr. Slape,

Re: Conduct of elections

I have received a number of notifications lodged under section 214 of the Workplace Relations Act 1996 for arrangements to be made with the Australian Electoral Commission for the conduct of elections within various branches of the Australian Municipal, Administrative, Clerical and Services Union (the ASU).

As you are aware appeals have been lodged in the Australian Industrial Relations Commission against my decisions in respect of alterations of the rules of the ASU. It appears that the grounds of appeal relate to the issue of discrimination under the Sex Discrimination Act 1984 and also the democratic control of the ASU. The appeals have been listed for hearing before Vice-President Ross on 7 March 2003.

I seek your views as to whether the proceedings presently before Vice-President Ross impinge on my consideration of the abovementioned notifications.

Should you wish to discuss the matter in the meantime, please contact Mr. Clency Lapierre on (03) 8661 7787.

Yours sincerely,


Terry Nassios
Deputy Industrial Registrar
11 February 2003

cc. Mr. William Jacomb
cc: Mr. Neil Kean



Australian Services Union
Taxation Officers Branch
116 Queensberry Street
Carlton South Vic 3053
Ph. 03) 9347 6080
Fax: 03) 9347 8781
asutax@asutax.asn.au

Branch Secretary: Jeff Lapidos
Ph. 0419 335 675
Jeff.Lapidos@asutax.asn.au

Mr Larry Powell
Australian Industrial Registry
Nauru House
Collins Street
Melbourne

11 March 2003

Dear Mr Powell

Australian Services Union Elections

I refer to your telephone enquiry in which you sought details of our membership numbers etc. Please accept my apologies for the delay with this response. My computer system broke down last week. It contains our membership register. I have only been able to resume using it today. I have set out below the information I understand you require.

Taxation Officers Branch:
AME @ 31 December 2002: 425

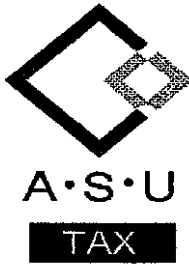
Financial members @ 31 December 2002 of various sub-branches
Southern: 220
Senior Officers: 105
Northern: 38
Central: 115

As for the number of National Conference Delegates that the Taxation Officers Branch is entitled to elect, I can only advise that according to the National Officials of the ASU that I have consulted about this issue, my advice has been that we are entitled to 3 delegates. Does your research suggest otherwise?

Please let me know if I can be of any further assistance.

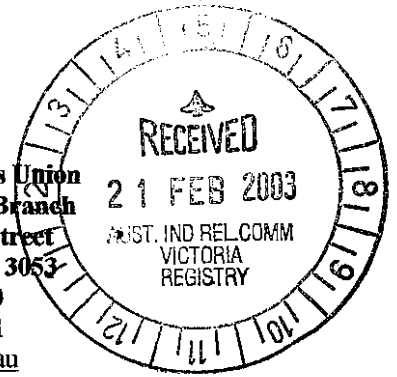
Yours sincerely

Jeff Lapidos



E 2003 / 38

**Australian Services Union
Taxation Officers Branch**
116 Queensberry Street
Carlton South Vic 3053
Ph. 03) 9347 6080
Fax: 03) 9347 8781
asutax@asutax.asn.au



Branch Secretary: Jeff Lapidos
Ph. 0419 335 675
jeff.lapidos@asutax.asn.au

Industrial Registrar
Australian Industrial Registry
Nauru House
Collins Street
Melbourne 3000

21 February 2002

Dear Registrar

Re: Section 214 and Regulation 61 - Union Elections

Pursuant to Section 214 and Regulation 61 of the Workplace Relations Act 1996, I advise that elections for the following Offices within the Australian Municipal, Administrative, Clerical and Services Union (ASU) Taxation Officers Branch are due to be held in 2003.

Name of Office

Branch President
Deputy Branch President
Branch Secretary
Assistant Branch Secretary
Branch Treasurer
Senior Officers' Sub-Branch Councillor
Central Sub-Branch Councillor
Southern Sub-Branch Councillors (2 positions)
National Conference Delegates (3 positions)
National Executive Representatives (2 positions)
The Alternate National Executive Representative
First and Second Alternate National Conference Delegates

The ASU Rules provide that nominations shall open on the first Wednesday in March and shall close 21 days after they are called.

The reasons for the elections are either that the term of office has expired or that new offices have been created.

In the following cases, the electorate is the whole of the financial membership of the Branch.

Name of Office

Branch President

Deputy Branch President

Branch Secretary

Assistant Branch Secretary

Branch Treasurer

National Conference Delegates (3 positions)

National Executive Representatives (2 positions)

The Alternate National Executive Representative

First and Second Alternate National Conference Delegates

In the following case, the electorate is all members with the Australian Public Service classification of Executive Level 1, Executive Level 2 or Senior Executive Service.

Name of Office

Senior Officers Sub-Branch Councillor

In the following case, the electorate is all members in the NSW and ACT regions, excluding all members with the Australian Public Service classification of Executive Level 1, Executive Level 2 and Senior Executive Service.

Name of Office

Central Sub-Branch Councillor

In the following case, the electorate is all members in the Victorian, Tasmanian, South Australian and Western Australian regions, excluding all members with the Australian Public Service classification of Executive Level 1, Executive Level 2 and Senior Executive Service.

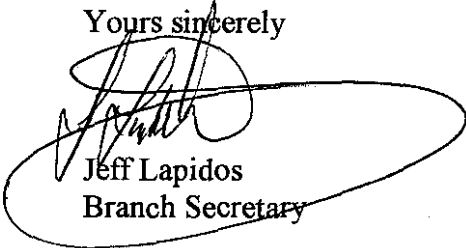
Name of Office

Southern Sub-Branch Councillor (2 positions)

The voting system to be employed is a direct voting system.

I certify that the above information has been lodged in accordance with sub-section 214(1) of the Workplace Relations Act 1996.

Yours sincerely



Jeff Lavidos
Branch Secretary