

POWELL, Larry

From: wayne.seymour@aec.gov.au
Sent: Monday, 8 September 2003 12:52 PM
To: ccfact@civilcontractors.com
Cc: larry.powell@air.gov.au; sonny.neoh@aec.gov.au
Subject: E2003/232, CCF-ACT Branch



CCF ACT E232
advice.doc

Mr David Dawes
Executive Director
CCF-ACT Branch
GPO Box 3022
Canberra ACT 2601

Post Election Report

I refer to the recently completed election for your organisation.

Section 197(1) of Schedule 1B of the Workplace Relations Act 1996 requires the AEC to provide a written report on the conduct of the election. A copy of the report in relation to this election is attached. The file can be opened by selecting the 'Read Only' option when prompted.

Further, Section 198 and the Regulations require an organisation to make the Post Election Report available to members upon request.

Please contact me if you wish to clarify any aspect of this report.

Wayne Seymour
Coordinating Officer

(See attached file: CCF ACT E232 advice.doc)

Workplace Relations Act 1996 – Schedule 1B
RETURNING OFFICER - POST ELECTION REPORT

Client: Civil Contractors Federation – ACT Branch

Contact details: Mr David Dawes Email: ccfact@civilcontractors.com
Executive Director Tel: 02 6247 2099
CCF-ACT Branch
GPO Box 3022
Canberra ACT 2601

AIR contact officer: Larry Powell Email: larry.powell@air.gov.au
Tel: 03 8661 7993

ELECTIONS COVERED IN THIS REPORT

Election Decision No/s E2003/232
Election ACT Branch:- Branch Committee, National
 Councillors, Branch Executive Director
Returning Officer Sonny Neoh

RULES

Rules used for elections Rule ID 267V: Incorporates alterations of 02/09/1998
Rules difficult to apply/interpret Election rules contradictory or unworkable.

ROLL OF VOTERS

A ballot was not necessary on this occasion and therefore a roll was not required.

ALLEGATIONS OF IRREGULARITIES RECEIVED

There were no written complaints or allegations of irregularities

IRREGULARITIES IDENTIFIED

Irregularity	Details
1. Contradictory rules:	Rule 46 relates to Branch Elections. Rule 46(e)(iii) stipulates that where there is a contest in the offices of Br Pres, Br Vice-President, Treasurer & Committee Member, <i>“the voting system will be a preferential voting system and will be carried according to Rule 28(c)(iv)”</i> . (Rule 28 relates to the election of National Councillors.) The contradiction lies in the following parts of Rule 28: Rule 28 (c)(iv)(i) stipulates that <i>“a voter shall record his vote on a ballot paper as follows. He shall place the figures 1,2,3,4, and so on against the names of <u>each and every candidate</u> so as to indicate by such numerical sequence the order of his preference. A consecutive number must be placed in each square commencing with the number ‘1’ otherwise the ballot paper will be rejected as informal.”</i>

HOWEVER

Rule 28 (c) (viii)(b) stipulates that *“Any vote in respect of the election of a person to an office shall be informal if:- A voter votes for a greater or lesser number of candidates than the number of offices to be filled”*

One rule requires the complete numbering of every square but the second rule implies that a voter must only number the exact number of squares/offices to be filled, for the vote to be formal.

2. Unworkable rule:

Rule 28 (c)(iv)(iii) relates to the process of excluding candidates:- *"If no candidate has received an absolute majority of first preference votes, The candidate who receives the fewest first preference votes shall be excluded and each voting paper counted to him shall be counted to the candidate next in order of the voters preference provided that where the least number of first preference votes is received by two or more candidates a second ballot conducted in a similar manner to the first ballot shall be held to determine which of these candidates shall be first eliminated from the original ballot for that position."*

The above underlined part of the rule is unworkable. In practice, it is not possible to hold a second postal ballot in the middle of a current postal ballot.

It is quite likely that the above underlined part of the rule was written for the context of a situation where members are in attendance at a meeting (where an attendance ballot is being held), and is therefore not suitable to be applied in a postal ballot situation.

ACTION TAKEN IN RELATION TO IRREGULARITIES

Nil. Fortunately, no ballots were required on this occasion.

ATTACHMENTS

Attachment A E No 2003/232 Declaration of uncontested offices – CCF, ACT Branch

Sonny Neoh
Returning Officer
26 August 2003

GPO Box 1824
Canberra ACT 2601

Level 1, 8-10 Hobart Place
Canberra City ACT 2601

ABN: 21 133 285 851

Reference: 03/ 231

Contact: Sonny Neoh
Phone: (02) 6249 7943
Facsimile: (02) 6248 7559
E-mail: sonny.neoh@aec.gov.au

Mr Gavan McArdle
Branch President
Civil Contractors Federation
ACT Branch
GPO Box 3022
Canberra ACT 2601

Dear Mr McArdle,

**CIVIL CONTRACTORS FEDERATION – ACT BRANCH.
ELECTION – E. No. 2003/ 232 REFERS.**

I refer to my letter of 30 July 2003 concerning the arrangements for me to conduct an election for various positions in your Organisation and wish to advise that a ballot will not be necessary.

My declaration of the uncontested positions is attached. In compliance with Rules 46(d) and 28(b), please table the declaration at your annual general meeting.

The ACT Branch elections are now complete.

Yours faithfully

SONNY NEOH
Returning Officer

22 August 2003

cc: All Candidates
Australian Industrial Registry – VIC

**Civil Contractors Federation
Australian Capital Territory Branch**

DECLARATION OF RESULTS

Results of the election for the following offices conducted in accordance with subsection 189(3) of Schedule 1B of the Workplace Relations Act 1996 and the rules of the organisation.
E No. 232 of 2003 refers.

Branch President

Candidate

MCARDLE, Gavan

Branch Vice-President

Candidate

DE SIMONE, Michael

Branch Treasurer

Candidate

MIDDLETON, Peter

Branch Committee Members (4)

Candidates

DUNN, Michael
FORDE, Nigel
HEWATT, Geoff
JONES, David

National Councillors (2)

Candidates

BARRETT, Ross
MCARDLE, Gavan

Branch Executive Director

Candidate

DAWES, David

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

Sonny Neoh
Returning Officer
Australian Electoral Commission, Canberra
22 August 2003

Sonny Neoh
Returning Officer
Australian Electoral Commission
Level 1, 8-10 Hobart Place
CANBERRA CITY ACT 2601

APPOINTMENT TO CONDUCT AN ELECTION AND/OR BALLOT

The AEC has made arrangements to conduct the following election:

[Scheduled Election]

E No. 2003/ 232
Civil Contractors Federation – ACT Branch

I have appointed you to conduct the above event. Would you please take the necessary steps.

for the Australian Electoral Officer
New South Wales

10 July 2003

For Information:

Deputy Industrial Registrar
Australian Industrial Registry
Victoria



Civil Contractors Federation

Formerly Australian Earthmovers & Road Contractors Federation

ACT BRANCH:

241 Northbourne Avenue, Lyncham ACT 2602

GPO Box 3022, Canberra, ACT 2601

Telephone: (06) 247 2099. Facsimile: (06) 249 8374.

FAXED
29 7.03

FJG:LRB

9 July 2003

Ms. C. Hayward,
Deputy Industrial Registrar,
Australian Industrial Registry,
GPO Box 539,
CANBERRA CITY ACT 2601

Fax: 6247 9774

Dear Ms. Hayward,

In accordance with Sub-section 214(1) of the Workplace Relations Act 1996, I advise that the Constitution and Rules of the Civil Contractors Federation require the election of office bearers and Council members' nominations at least fifty (50) days before the Annual Meeting in each year.

The Returning Officer is required to forward by post to each financial member a nomination form with a notification thereon or therewith of the closing date and time of such nomination.

The ACT Branch Annual Meeting will be held on Monday 29 September 2003 and we therefore intend to have the Returning Officer call for nominations for the positions on the ACT Branch of Civil Contractors Federation on Tuesday 29 July 2003. Nominations and consents will close at 4.00 p.m. on Monday 14 August 2003.

Please find enclosed a signed copy of the statement which details the Prescribed Information lodged in accordance with Sub-section 214(1).

Yours faithfully,

Gavan McArdle
Branch President

Encl.

**CIVIL CONTRACTORS FEDERATION
ACT BRANCH**

Statement Prescribed Information in respect of Election Sub-section 214(1) of the Workplace Relations Act 1996.

1. The name of each office in respect of which an election is required:

OFFICE BEARERS

Branch President (1)
Branch Vice President (1)
Branch Honorary Treasurer (1)
Committeemen (4)
National Councillors (2)
Branch Executive Director (1)

2. The reason for the election being:

The office bearers shall retire at the Annual Meeting but shall be eligible for re-election.

3. The Returning Officer will call for nominations for the positions on Tuesday 29 July 2003. Nominations and Consents will close at 4.00 p.m. on Monday 14 August 2003. The Annual Meeting will be held on Monday 29 September 2003.

4. The voting system to be employed in the conduct of this election is Preferential Voting System.

Certified as a true statement of the prescribed information in respect of an election of office bearers of the ACT Branch of Civil Contractors Federation.



Gavan McArdle
Branch President

9 July 2003

PR935125

WORKPLACE RELATIONS ACT 1996
s189 RAO Schedule - arrangement for conduct of an election

Civil Contractors Federation
(E 2003/232)

T. NASSIOS
DEPUTY INDUSTRIAL REGISTRAR

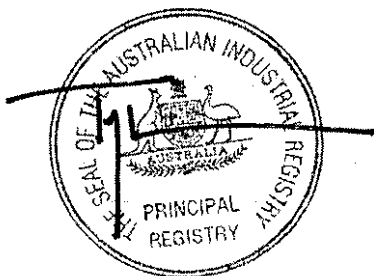
MELBOURNE, 29 JULY 2003

DECISION

On 10 and 29 July 2003, the Australian Capital Territory Branch of the abovenamed organisation lodged in the Industrial Registry the prescribed information in relation to an election for the following offices:

Branch President
Branch Vice-President
Branch Treasurer
Branch Committee Members (4)
National Councillors (2)
Branch Executive Director

I am satisfied that an election for the abovenamed offices is required to be held under the rules of the organisation and, under subsection 189(3) of Schedule 1B of the Workplace Relations Act 1996, I am making arrangements for the conduct of the election by the Australian Electoral Commission.



POWELL, Larry

From: POWELL, Larry
Sent: Wednesday, 30 July 2003 9:05 AM
To: 'ccfact@civilcontractors.com'
Subject: E2003/232 - TO Dawes,Mr David, Civil Contractors Federation-Australian Capital Territory Branch re Print filed on 30/7/2003

In relation to E2003/232 before Registrar - Deputy Industrial Registrar Nassios, I have attached for your information a copy of Print(s) 935125 which has been filed in the Australian Industrial



2003-232-CCF-
ACT-Dec.doc

Registry.

POWELL, Larry
From: POWELL, Larry
Sent: Wednesday, 30 July 2003 10:04 AM
To: 'industrial.elections@aec.gov.au'
Subject: Election decision: E2003/232 - CCF - ACT Br

Enclosed is a copy of the above decision and a copy of the rules of the organisation.



2003-232-CCF- CCF -
ACT-Dec.doc ED ((02-09-199

No alterations have been lodged to those rules.

POWELL, Larry
From: POWELL, Larry
Sent: Tuesday, 29 July 2003 1:25 PM
To: 'industrial.elections@aec.gov.au'
Subject: 2003-232 CCF-ACT Br amended notification

FYI



2003-232-CCF-
T-amended noti

POWELL, Larry
From: POWELL, Larry
Sent: Friday, 25 July 2003 9:40 AM
To: 'ccfact@civilcontractors.com'
Subject: Election notification CCF - ACT Branch

Copy of letter for you information. Original being forwarded by post



2003-232-CCF-
letter.doc

POWELL, Larry
From: POWELL, Larry
Sent: Friday, 25 July 2003 8:35 AM
To: 'sonny.neoh@aec.gov.au'
Subject: E2003-232 CCF - ACT Br

Sonny,

FYI



2003-232-CCF-
letter.doc

POWELL, Larry
From: LAPIERRE, Clency
Sent: Thursday, 10 July 2003 10:38 AM
To: 'industrial.elections@aec.gov.au'
Cc: Larry POWELL
Subject: CCF ACT Branch - E2003/232

FYI



CCF ACT
Branch.tif

Clency Lapierre



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. D. Dawes
Branch Executive Director
Civil Contractors Federation
Australian Capital Territory Branch
GPO Box 3022
CANBERRA ACT 2601

Dear Mr. Dawes,

Re: Conduct of elections

I refer to your letter of 9 July 2003 requesting that arrangements be made for the conduct of an election for certain offices within the Australian Capital Territory Branch of the Civil Contractors Federation.

I note the office of Branch Executive Director has not been included in the above notification. Our records indicate that no notification has ever been made for the conduct of an election for such office. This matter has been discussed recently between Mr. Powell of this office and a member of your staff who advised that at the present time the branch does not intend to lodge a notification in respect of the office of Branch Executive Director.

Subsection 182(1) of Schedule 1B of the Workplace Relations Act 1996 requires each election for an office in an organisation, or branch of an organisation, to be conducted by the Australian Electoral Commission unless an exemption is granted under s186 of Schedule 1B. No exemption currently exists in relation to the office of Branch Executive Director.

Subsections 189(1) and (2) of Schedule 1B require an organisation or branch of an organisation to lodge in the Industrial Registry the prescribed information in relation to an election that is to be conducted by the Australian Electoral Commission before the prescribed day or such later day as a Registrar allows - refer regulation 138 of the Workplace Relations (Registration and Accountability of Organisations) Regulations 2003. Subregulation 138(2) requires that such information contain a statement, signed by an officer of the organisation or branch who is authorised to sign the statement, that the information is lodged under subsection 189(1) of the RAO Schedule.

Rule 46A(a) of the rules of the organisation provides:

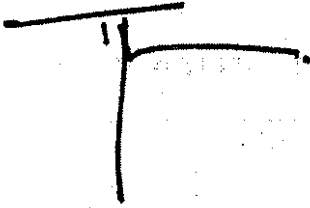
"(a) There shall be a Secretary of each Branch who shall be known as the Branch Executive Director who shall be the principal salaried officer of the Branch and shall hold office for three years. He shall be elected by the members of the branch and his remuneration and conditions of employment shall be determined by the branch committee of management. His election will take the form of a secret postal ballot and shall make provision for absent voting."

Having regard to the above, I have some doubt as to whether you are able to continue to hold such office. Therefore, I am not satisfied at this time that you are an officer of the branch as referred to in regulation 138 capable of lodging a notification pursuant to subsections 189(1) and (2).

In order for me to make arrangements for the offices requested, you would either need to provide me with a submission as to how you remain an officer of the branch or alternatively (so as to arrange for the conduct of the election in accordance with the timetable set out in your letter), arrange for an officer of the branch i.e. the President or Vice-President to lodge a notification for the positions previously requested.

If you require any further advice in relation to this matter, you may contact Mr. Larry Powell of this office on (03) 8661 7993.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Terry Nassios', written over a horizontal line.

Terry Nassios
Deputy Industrial Registrar

24 July 2003

Facsimile Message



241 Northbourne Avenue, Lyneham ACT 2602 ABN 52 853 568
GPO Box 3022, Canberra ACT 2601
Tel: 02 6247 2099 Fax: 02 6249 8374
E-mail: lorraine@mba.org.au

To: DIR

Attention: LARRY POWELL

From: LORRAINE BROOK

Fax No: 03 016546672

Date: 29. 7. 03

Pages Following: 1+2

Message

LARRY

SIGNED LETTER ETC AS
DISCUSSED YESTERDAY

Li

RE CIVIL CONTRACTORS FEDERATION



CIVIL CONTRACTORS FEDERATION

Formerly Australian Earthmovers & Road Contractors Federation

ACT BRANCH:
241 Northbourne Avenue, Lyncham ACT 2602
GPO Box 3022, Canberra, ACT 2601
Telephone: (06) 247 2099, Facsimile: (06) 249 8374.

FJG:LRB

9 July 2003

Ms. C. Hayward,
Deputy Industrial Registrar,
Australian Industrial Registry,
GPO Box 539,
CANBERRA CITY ACT 2601

Fax: 6247 9774

Dear Ms. Hayward,

In accordance with Sub-section 214(1) of the Workplace Relations Act 1996, I advise that the Constitution and Rules of the Civil Contractors Federation require the election of office bearers and Council members' nominations at least fifty (50) days before the Annual Meeting in each year.

The Returning Officer is required to forward by post to each financial member a nomination form with a notification thereon or therewith of the closing date and time of such nomination.

The ACT Branch Annual Meeting will be held on Monday 29 September 2003 and we therefore intend to have the Returning Officer call for nominations for the positions on the ACT Branch of Civil Contractors Federation on Tuesday 29 July 2003. Nominations and consents will close at 4.00 p.m. on Monday 14 August 2003.

Please find enclosed a signed copy of the statement which details the Prescribed Information lodged in accordance with Sub-section 214(1).

Yours faithfully,

Gavan McArdle
Branch President

Encl.

**CIVIL CONTRACTORS FEDERATION
ACT BRANCH**

Statement Prescribed Information in respect of Election Sub-section 214(1) of the Workplace Relations Act 1996.

1. The name of each office in respect of which an election is required:

OFFICE BEARERS

Branch President (1)
Branch Vice President (1)
Branch Honorary Treasurer (1)
Committeemen (4)
National Councillors (2)
Branch Executive Director (1)

2. The reason for the election being:

The office bearers shall retire at the Annual Meeting but shall be eligible for re-election.

3. The Returning Officer will call for nominations for the positions on Tuesday 29 July 2003. Nominations and Consents will close at 4.00 p.m. on Monday 14 August 2003. The Annual Meeting will be held on Monday 29 September 2003.

4. The voting system to be employed in the conduct of this election is Preferential Voting System.

Certified as a true statement of the prescribed information in respect of an election of office bearers of the ACT Branch of Civil Contractors Federation.



Gavan McArdle
Branch President

9 July 2003



CIVIL CONTRACTORS FEDERATION

Formerly Australian Earthmovers & Road Contractors Federation

ACT BRANCH:

241 Northbourne Avenue, Lyncham ACT 2602
GPO Box 3022, Canberra, ACT 2601
Telephone: (06) 247 2099, Facsimile: (06) 249 8374.

FJG:LRB

9 July 2003

Ms. C. Hayward,
Deputy Industrial Registrar,
Australian Industrial Registry,
GPO Box 539,
CANBERRA CITY ACT 2601

Fax: 6247 9774

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Yours faithfully,

David Dawes
Executive Director

Encl.

**CIVIL CONTRACTORS FEDERATION
ACT BRANCH**

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4. The voting system to be employed in the conduct of this election is Preferential Voting System.

Certified as a true statement of the prescribed information in respect of an election of office bearers of the ACT Branch of Civil Contractors Federation.



David Dawes
Executive Director

9 July 2003