

The Industrial Registrar
Australian Industrial Relations Commission
80 William Street
SYDNEY 2000



Attention Ms M Buchanan

Dear Ms Buchanan,

RESIGNATION FROM ALL ELECTED POSITIONS HELD
WITHIN THE CFMEU-FFTS UNION DIVISION(Divisional and Victorian Branch)

The purpose of this letter is to inform you that I hereby tender my resignation from all the elected [positions which I held within the CFMEU-FFTS Union Division, this is in addition to the letter advising you of the resignation as Divisional Secretary forwarded to your office a couple of weeks ago.

A letter of resignation has been forward by mail to Mr John Maitland the National Secretary of the CFMEU located in Sydney.

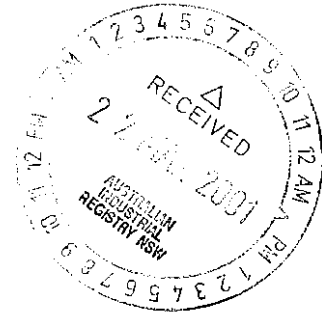
The resignation for all elected positions is effective immediately and your office will need to determine what the appropriate course of action is required to fill the positions permanently.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'L. Kyriacou'.

Lou Kyriacou
111 Weeden Drive
VERMONT SOUTH 3133
VICTORIA
3 April 2001

The Industrial Registrar
Australian Industrial Relations Commission
80 William Street
SYDNEY 2000



Attention Ms M Buchanan

Dear Ms Buchanan,

RESIGNATION FROM ELECTED POSITION

The purpose of this letter is to inform you that I hereby tender my resignation from the elected position that I currently hold as the Divisional Secretary of the CFMEU-FFTS Union Division.

A letter of resignation has been forward by mail to the office of the union located at 130 Errol Street, North Melbourne 3051.

The resignation is effective immediately and your office will need to determine what the appropriate course of action is required to fill the position permanently.

Yours Sincerely

A handwritten signature in cursive script, appearing to read "L. Kyriacou".

Lou Kyriacou
111 Weeden Drive
VERMONT SOUTH 3133
VICTORIA



AUSTRALIAN INDUSTRIAL REGISTRY

Level 8, Terrace Towers
80 William Street, East Sydney, NSW 2011
Telephone: (02) 8374 6666
Fax: (02) 9380 6990

Mr L Kyriacou
111 Weeden Drive
VERMONT SOUTH VIC 3133

Dear Mr Kyriacou

Thank you for your letters advising your resignation from your positions within the FFTS Union Division of the Construction, Forestry, Mining and Energy Union which were received in the Industrial Registry on 22 March 2001 and 9 April 2001.

Under the rules of the FFTS Union Division, elections may be required and accordingly I have written to the President of the FFTS Union Divisional Branch seeking his advice regarding the steps the Branch proposes to take to fill the vacancies.

Yours sincerely

Stephen Kellett
for Deputy Industrial Registrar

25 June 2001



AUSTRALIAN INDUSTRIAL REGISTRY

Level 8, Terrace Towers
80 William Street, East Sydney, NSW 2011
Telephone: (02) 8374 6666
Fax: (02) 9380 6990

Mr Alex Findlay
President, FFTS Union Division
CFMEU
130 Errol Street
NORTH MELBOURNE VIC 3051

Dear Mr Findlay

Re Resignation of Divisional Secretary

The Industrial Registry has received two letters from Mr Lou Kyriacou advising his resignation from his elected positions from both the Divisional Office and the Victorian Branch of the FFTS Union Division of the Construction, Forestry, Mining and Energy Union.

Your advice is requested as to the steps the organisation has taken or intends taking to fill the vacancies. Where an election is required under the rules, it is suggested that the information prescribed under regulation 61 of the Workplace Relations Regulations be lodged as soon as possible pursuant to section 214(1) of the *Workplace Relations Act 1996*.

Yours sincerely

Stephen Kellett
for Deputy Industrial Registrar

25 June 2001



CONSTRUCTION, FORESTRY, MINING and ENERGY UNION

F.F.T.S. Union Division (Victorian Branch)

130 Errol Street, North Melbourne, Vic. 3051

Telephone: (03) 9329 1577 (6 lines) Fax: (03) 9328 2228

E-mail: ffts@ffts.cfmeu.asn.au



30 November 2001

File Ref. IRF-02.98

via fax transmission (02) 9380 6990

Ms Margaret Buchanan
Deputy Industrial Registrar
Australian Industrial Relations Commission
Level 8, Terrace Towers
80 William Street,
EAST SYDNEY 2011



Dear Ms Buchanan

RE: Calling Elections in the CFMEU-FFTS Union Division

On 27 November 2001 I was directed by the Branch Committee of Management to notify that as a result of casual vacancies elections are required for the following offices:

1. Victorian Divisional Branch Secretary - *M. Haritou*
2. Victorian Divisional Branch Vice President - *L. Kyriacos (not subject of E2001/207)*
3. Victorian Divisional Branch Conference Delegate to Divisional Conference - *E2001/207*

The election is required to be held by direct election from the financial members of the Victorian Branch of the CFMEU-FFTS Union Division.

Elections were last conducted within this Branch during the year 2000 with the incumbents taking office from 1 January 2001 for a period of 4 years. The vacancies that have occurred require the holding of an election as there is longer than 12 months remaining in the term and three quarters of the term has not expired.

Michael Haritou the previous Divisional Branch Secretary was dismissed from office and expelled from the Division following the hearing of charges by the Divisional Branch Executive on 1 November 2001. Lou Kyriacos, who previously held both of the other offices which require election resigned from the Division earlier this year.

This information has been provided in accordance with section 214(1) and regulation 61 of the Workplace Relations Act.

Yours faithfully

Leo Skourdombis
Divisional Branch Assistant Secretary
CFMEU - FFTS Union Division

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CONSTRUCTION, FORESTRY, MINING and ENERGY UNION

F.F.T.S. Union Division (Victorian Branch)

130 Errol Street, North Melbourne, Vic. 3051

Telephone: (03) 9329 1577 (6 lines) Fax: (03) 9328 2228

E-mail: ffts@ffts.cfmeu.asn.au



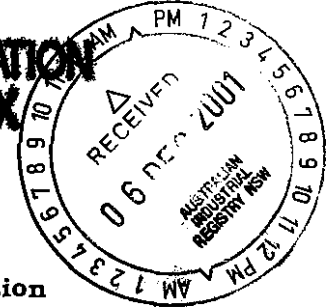
30 November 2001

File Ref. IRF-02.98

via fax transmission (02) 9380 6990

Ms Margaret Buchanan
Deputy Industrial Registrar
Australian Industrial Relations Commission
Level 8, Terrace Towers
80 William Street,
EAST SYDNEY 2011

**CONFIRMATION
OF FAX**



Dear Ms Buchanan

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1. Victorian Divisional Branch Secretary
2. Victorian Divisional Branch Vice President
3. Victorian Divisional Branch Conference Delegate to Divisional Conference

The election is required to be held by direct election from the financial members of the Victorian Branch of the CFMEU-FFTS Union Division.

Elections were last conducted within this Branch during the year 2000 with the incumbents taking office from 1 January 2001 for a period of 4 years. The vacancies that have occurred require the holding of an election as there is longer than 12 months remaining in the term and three quarters of the term has not expired.

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This information has been provided in accordance with section 214(1) and regulation 61 of the Workplace Relations Act.

Yours faithfully

Leo Skourdombis
Divisional Branch Assistant Secretary
CFMEU - FFTS Union Division

THE FOLLOWING FILE(S) ERASED

FILE	FILE TYPE	OPTION	TEL NO.	PAGE	RESULT
042	MEMORY TX		0392857149	02/02	OK

ERRORS

1) HANG UP OR LINE FAIL 2) BUSY 3) NO ANSWER 4) NO FACSIMILE CONNECTION

**FAX COVER SHEET**

FROM STEPHEN KELLETT
 AUSTRALIAN INDUSTRIAL REGISTRY, SYDNEY

TO JOHN NELLOR
 AEC VICTORIA

FAX NO 03 9285 7149

DATE 17/12/01

RE E2001/255 VICTORIAN BRANCH CASUAL VACANCIES

Dear John

Please see attached prescribed information re the above lodged 6 December



**CONSTRUCTION, FORESTRY
MINING and ENERGY UNION**
E.F.T.S. Union Division

130 Errol Street, North Melbourne, Vic. 3051
Telephone: (03) 9329 1577 (6 lines) Facsimile: (03) 9328 2228

FACSIMILE TRANSMISSION

U R G E N T !

TO: Robin Godfrey <i>Australian Industrial Registry</i>	(02) 9332 6666 FAX NO. (02) 9332 6770
NUMBER OF PAGES INCLUDING THIS PAGE: 10	DATE: 10/12/01
SUBJECT: Expulsion of M. Haritou	FROM: L. Skourdombis
<p>Attached please find copy of the Minutes of the Victorian Branch Executive Meeting held on 1 November 2001 in relation to the above matter, as requested by you.</p>	
<p align="center">* Please telephone immediately if not received in readable form. *</p> <p align="center">Tel: (03) 9329 1577</p>	



**CONSTRUCTION, FORESTRY, MINING AND ENERGY UNION
F.F.T.S. UNION DIVISION**

**THE MINUTES OF THE VICTORIAN BRANCH EXECUTIVE
MEETING**

Held on Thursday, 1 November 2001

PRESENT: M. Haritou, L. Skourdoumbis, J. Patti, F. Vari and A. Wallace.

Moved L. Skourdoumbis

Seconded: F. Vari

"That Joe Patti be the Chairperson."

The motion was put and

CARRIED

J. Patti informed the meeting that there were pens and paper on the table as well as a copy of the Rules.

He then informed the meeting that charges had been laid against Michael Haritou under Rule 14 by Adam Wallace.

Adam Wallace then handed each participant a folder which included the charge, summons, a copy of Rule 14, a copy of the Statutory Declaration, the transcript of proceedings and the witness statements of Fox, Pappas, Brown, Lennon and Butler.

Joe Patti then read the charge and the particulars of the charge, word for word.

Joe Patti asked Michael Haritou if he pleaded guilty or not guilty.

Michael Haritou referred to an Extraordinary Division Conference meeting which allegedly took place the night before and a resolution carried at that Conference.

Leo Skourdoumbis asked the Chair to ask Michael Haritou to answer the question and moved two resolutions:

"That Michael Haritou be asked by the Chairperson to answer the question with respect to which plea he wishes to enter"; and

"that this Executive regards the resolutions of the Extraordinary Divisional Conference as being irrelevant to these proceedings."

F. Vari seconded the resolution

CARRIED

L. Skourdoumbis restated the resolutions three times for Michael Haritou's benefit.

J. Patti then asked Michael Haritou how he pleads and repeated the question.

M. Haritou refused to enter a plea

J. Patti then said that he will proceed on the basis of a 'not guilty' plea.

M. Haritou said that J. Patti can't assume that and then asked to make a statement.

J. Patti told him to go ahead.

M. Haritou said "On the basis that I'm not legally represented, the Extraordinary Divisional Conference resolution and the fact that I believe I haven't been served properly, I ask the Executive to stop the proceedings."

Moved L. Skourdoumbis

Seconded: F. Vari

"That legal representation should not be allowed at this proceeding for either M. Haritou or A. Wallace."

The motion was put and

CARRIED

M. Haritou said "in that case, I'll participate no further."

M. Haritou walked out at approximately 10.35am.

Moved L. Skourdoumbis

"That this Divisional Branch Executive continue on the basis of Michael Haritou entering a 'not guilty' plea."

Seconded: F. Vari (in seconding the motion F. Vari asked to address the matters raised by Michael Haritou.

J. Patti then told F. Vari to go ahead

F. Vari said with respect to the point about legal representation, that has already been addressed by a resolution of the Divisional Branch Executive.

With respect to the Extraordinary Divisional Conference resolution, I believe it is null and void anyway. In support of my argument I draw everyone's attention to Rule 14(2) which stipulates that the Divisional Executive and the Divisional Branch Executive shall be the first port of call for the hearing of

charges and secondly, to a recent decision by Justice Finkelstein in the Federal Court of Australia (V1093 of 2001) in which he stated that the Divisional Conference is not the appropriate forum to hear charges in the first instance.

As far as not being served properly is concerned, I wish to say that I don't agree because steps were taken to bring the summons to Michael Haritou's attention at least 21 days before this hearing. It was brought to the attention of the COM members by telephone on the night of October 9, 2001 by Dave O'Brien that Michael Haritou had been handed the charge and that he had done so personally.

I believe that there had been substantial compliance with the rules.

Accordingly, I concur that we should proceed on the basis of a plea of 'not guilty' entered by Michael Haritou.

The motion was put and

CARRIED

J. Patti then asked A. Wallace to state his case and explain why he is bringing a case against Michael Haritou.

"Adams Statement"

I. Skourdoumbis asked how long it has been since he had left the employment of Don Mathieson & Staff Glass.

A. Wallace responded by saying 'at least 7 months'.

There were no further questions.

Since M. Haritou had left the room, J. Patti asked A. Wallace to call witnesses.

The first witness to enter the room was Andy Pappas.

A. Wallace then proceeded to ask Andy Pappas questions.

Q1. Did you Andy Pappas see a final copy of the enterprise bargaining agreement before certification?

A. Never.

Q2. Were you Andy Pappas aware of a final copy of the enterprise bargaining agreement being available for you to read prior to certification?

A. Never.

Q3. Did you Andy Pappas vote for the final copy of the certified agreement?

A. Never.

L. Skourdoumbis asked A. Pappas whether the statement that he has tendered is true and correct and secondly, whether he wished to make any changes to the statement.

Andy Pappas replied 'no'.

L. Skourdoumbis then suggested that this witness statement should be marked 'exhibit 1'.

J. Patti confirmed that it would be marked 'exhibit 1'.

Second witness - Tony Lennon

A. Wallace asked Tony to state his full name, address and occupation and then proceeded to ask him the following questions:

Q1. Is your statement true and correct?

A. Yes

Q2. Do you wish to make any changes to this statement.

A. No

Q3. Did you see a final copy of the enterprise bargaining agreement before certification.

A. No

Q4. Were you aware of a final copy being available to you before certification.

A. No.

Q5. Did you vote on a final copy of the enterprise bargaining agreement prior to certification?

A. No.

Tony then proceeded to emphasise that he had rung Michael Haritou to find out what was happening regarding the enterprise bargaining agreement and was told that the EBA had already been done.

F. Vari asked Tony to clarify what he had just said.

Tony repeated that he had contacted Michael Haritou by telephone and asked him when the members were going to have a meeting regarding the EBA. He then said that Michael responded by saying 'it's done, I've signed it, it's finished, it's taken care of'.

F Vari then asked Tony whether that's his statement.

Tony responded 'yes'.

J. Patti mentioned that the witness statement provided by Tony Lennon would be marked 'exhibit 2'.

The third witness was Brian Nuttal.

This witness was questioned via telephone hook-up.

A. Wallace asked him to state his name, address and current occupation for the members of the Executive.

A. Wallace asked him about his witness statement, whether it was true and correct and whether he wanted to make any changes.

Brian responded by saying it was true and correct and that he did not wish to make any changes.

A. Wallace then proceeded to ask Brian the following questions.

Q1. Did you see a final copy of the EBA before certification?

A. No.

Q2. Were you aware of a final copy being available to you to read prior to certification.

A. No.

Q3. Did you vote on the final copy of the EBA prior to certification?

A. No.

J Patti then asked what role Brian played at DMS Glass.

Brian responded that he was the shop steward.

J. Patti then asked how Brian Nuttal eventually knew that the members at DMS Glass had an EBA that was certified in the Commission.

Brian responded by saying that he first knew of it after a telephone conversation with Michael Haritou in which he stated that the Commission had already passed the agreement and no further action was needed to be taken.

There were no further questions.

J. Patti marked the statement 'exhibit 3'.

After the Executive had finished questioning the witnesses, J. Patti asked A. Wallace for his final submission and further, what type of penalty he felt should be imposed by the Divisional Branch Executive.

F. Vari then stated that the chairperson should make it clear to A. Wallace that he is being asked to provide a statement about penalty, not because a decision has been made, but to assist the Executive in imposing a penalty if they decide if a penalty is required.

J. Patti proceeded to point this out to Adam Wallace. He then asked Adam to proceed with his submission.

Once Adam Wallace finished his submission, Joe asked if there were any questions of Adam Wallace.

L. Skourdoumbis asked the following:

How serious do you believe the charges are and how serious do you believe the members at DMS Glass consider the charges?

Adam's response was that he believed that the charges were very serious and that is why he had decided to take this course of action. He also pointed out that he had been pursued vigorously by the members at DMS Glass to seek justice on this issue. The members had pointed out to him that they had not been given the right to participate in their own enterprise bargaining agreement and that Michael Haritou should be taken to task for that. The members believed that the actions taken by Adam Wallace were appropriate in this regard.

L. Skourdoumbis then asked Adam how Michael Haritou's conduct regarding this matter only was perceived by members at DMS Glass.

Adam responded by saying that the members had not only lost faith in Michael, but lost faith in the Union. It was one of the biggest glass factories in the industry and as stated earlier they had not been given the right to participate in an agreement governing their wages and conditions. Adam went on to reaffirm that the conduct of Michael Haritou was of the most serious kind imagined and restated that there was substantial breaches of the rules which, in his view, amounted to gross misbehaviour and/or gross neglect of duty. As such, he asked the Executive to seriously consider dismissing Michael Haritou from his office and also expelling Michael Haritou from the Union.

J. Patti asked if there are any further questions.

Answer - 'No'.

J. Patti then asked Adam Wallace to leave the room and made him aware that the Divisional Branch Executive will advise both, himself and Michael of their decision in writing within 7 days.

J. Patti stressed that before the deliberations could commence the Executive could only take into account the statements of the witnesses present.

The Divisional Branch Executive then deliberated and carried six resolutions.

Resolutions

Part 1

Having considered the evidence and submissions of Adam Wallace and Michael Haritou having appeared and withdrawn, the Divisional Branch Executive resolves that the charge against Michael Haritou alleging failure to observe the rules of the division as set out in the charge dated 18 September 2001, is proven and that Michael Haritou is guilty of the charge.

Moved: L. Skourdoumbis

Seconded: F. Vari

CARRIED

Having found that Michael Haritou is guilty of the failure to observe the rules of the division as set out in the charge dated 18 September 2001, the Divisional Branch Executive resolves that Michael Haritou is hereby dismissed from the office of Divisional Branch Secretary of the Victorian Branch of the CMFEU-FFTS Union Division with immediate effect.

Moved: L. Skourdoumbis

Seconded: F. Vari

CARRIED

Having found that Michael Haritou is guilty of the failure to observe the rules of the division as set out in the charge dated 18 September 2001, the Divisional Branch Executive further resolves that Michael Haritou is hereby expelled from membership of the CMFEU-FFTS Union Division with immediate effect.

Moved: L. Skourdoumbis

Seconded: F. Vari

CARRIED

Part 2

Having considered the evidence and submissions of Adam Wallace, and Michael Haritou having appeared and withdrawn, the Divisional Branch Executive resolves that the charge against Michael Haritou alleging gross misbehaviour and gross neglect of duty under the rules of the division as set out in the charge dated 18 September 2001 is proven and that Michael Haritou is guilty of gross misbehaviour and gross neglect of duty as charged.

Moved: L. Skourdoumbis

Seconded: F. Vari

CARRIED

Having found that Michael Haritou is guilty of gross misbehaviour and gross neglect of duty under the rules of the division as set out in the charge dated 18 September 2001, the Divisional Branch Executive resolves that Michael Haritou is hereby dismissed from the office of Divisional Branch Secretary of the Victorian Branch of the CFMEU-FFTS Union Division with immediate effect.

Moved: L. Skourdoumbis

Seconded: F. Vari

CARRIED

Having found that Michael Haritou is guilty of, gross misbehaviour and gross neglect of duty under the rules of the division as set out in the charge dated 18th September 2001, the Divisional Branch Executive resolves that Michael Haritou is hereby expelled membership of the CFMEU-FFTS Union Division with immediate effect.

Moved: L. Skourdoumbis

Seconded: F. Vari

CARRIED

J. Patti then asked for general business.

F. Vari then reported on the current inadequacy of the Union policy with respect to allowances provided during interstate travel and the reimbursement of expenses. He further reported that he had held discussions with senior officers from the Construction Division Victorian Branch about what method they employed.

After considering this issue the following was moved:

1. That the Accountant Ernie Landolt be authorised to investigate and obtain corporate cards for the use by Executive members only.
2. That the guidelines governing the use of those corporate cards will be determined in consultation with the Division's National Office appointed Administrator, Rick Fowler.
3. All corporate card expenditure is to be itemised and presented at each monthly meeting of the COM.

The motion was put and **CARRIED**

J. Patti reported that the gas hot water service had burst and as a result had damaged one of the Union's offices.

Moved J. Patti **Seconded:** L. Skourdoumbis

"That the actions of the senior officers in repairing the gas hot water service be endorsed. Secondly, any further action that needs to be taken to bring the office back from a state of disrepair be endorsed."

The motion was put and **CARRIED**

J. Patti declared the meeting closed at 11.52am

CHAIRPERSON:.....

EXECUTIVE MEMBER

EXECUTIVE MEMBER

DATE:.....



AUSTRALIAN INDUSTRIAL REGISTRY

Level 8, Terrace Towers
80 William Street, East Sydney, NSW 2011
Telephone: (02) 8374 6666
Fax: (02) 9380 6990

Mr Leo Skourdombis
Divisional Branch Assistant Secretary
FFTS Union Division, Victorian Branch
CFMEU
130 Errol Street
NORTH MELBOURNE VIC 3051

Dear Mr Skourdombis

Re elections (Victorian Branch)

I refer to your letter dated 30 November 2001 in which prescribed information under regulation 61 of the Workplace Relations Regulations was lodged in the Registry.

I seek your advice as to whether you are aware of any court order, injunction or other court ruling which would affect the granting of a decision by a Registrar in relation to the positions the subject of your application.

If you have any queries in relation to the above, please do not hesitate to contact me on (02) 8374 6504 or, in my absence, Stephen Kellett on (02) 8374 6509.

Yours sincerely,

Margaret Buchanan
Deputy Industrial Registrar

14 December 2001



AUSTRALIAN INDUSTRIAL REGISTRY

Level 8, Terrace Towers
80 William Street, East Sydney, NSW 2011
Telephone: (02) 8374 6666
Fax: (02) 9380 6990

Mr Leo Skourdoumbis
Assistant Secretary, Victorian Divisional Branch, FFTS Division
CFMEU
130 Errol Street
NORTH MELBOURNE VIC 3051

Dear Mr Skourdoumbis

Re election - Victorian Branch

I refer to your letter dated 30 November 2001 in which prescribed information under regulation 61 of the Workplace Relations Regulations was lodged in the Registry, and to my previous letter to you dated 14 December 2001 seeking your advice as to whether you were aware of any court ruling which would affect the granting of a decision by a Registrar in relation to the positions the subject of your application. I have not yet received any advice from you to date. However I have been provided a copy of the judgment and order of Gray J. in V287 of 2001.

It appears from the text of His Honour's judgment that there are current proceedings, namely V281 and V636 of 2001, involving the FFTS Division. If I understand the references correctly, these issues are whether or not the election of the Delegates to the Divisional Conference in E2029 of 2000 constituted an irregularity, and whether or not the rules establishing the formulae for determining the number of Delegates to Divisional Conference contravene section 196 of the *Workplace Relations Act 1996* ('the Act').

These issues do not appear to me to have any direct relation to two of the vacancies notified in your notification under s214(1) of the Act, namely the positions of Branch Secretary and of Branch Vice President. The third vacancy notified, namely Branch Delegate to Divisional Conference, appears to be the same as that notified and granted in my earlier decision of 24 September 2001 in E207 of 2001 and therefore I do not propose to make arrangements for the conduct of an election to this position again.

A Registrar is required under section 214(2) of the Act to arrange for the conduct of an election if he or she is satisfied that an election is required to be held under the rules of the organisation or branch. Accordingly, unless I receive your advice that there any current proceedings before any Court disputing the vacancies of Branch Secretary and Branch Vice President notified, it is my intention to proceed with a determination of the matter and issue a decision in relation to them.

I therefore request your advice and any comments you wish to make in relation to the above matter **by no later than Monday 4th February 2002**. If you have any queries in the meantime, please contact me on (02) 8374 6504 or, in my absence, Stephen Kellett on (02) 8374 6509.

Yours sincerely,

Margaret Buchanan
Deputy Industrial Registrar

21 January 2002

cc. Mr Rick Fowler
Executive Officer, CFMEU

GILL KANE & BROPHY

solicitors

Partners
E. L. Cooney
B. F. Brophy
K. Callil Roberts

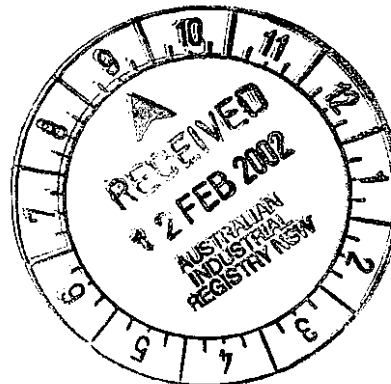
Senior Associate
A. M. Duffy

FAX TRANSMISSION

DATE: 11 February 2002 **ATTENTION:** Ms M Buchanan
TO: Australian Industrial Registry
FAX.NO: 02 9380 6990 **FILE NO:** 01194
FROM: Alanna Duffy
MATTER: Elections in CFMEU – FFTS Union Division (Victorian Branch)
EMAIL: aduffy@gkb.com.au
No of Pages (including this one): 2

MESSAGE

Letter follows.



Initials of Sender:

Time of Transmission:

This information in this facsimile is confidential. If you are not the intended receiver, please telephone Gill Kane & Brophy on (03) 9670 7806, and return the original facsimile. We will refund any costs of doing so.

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Level 1, 520 Bourke Street, Melbourne, Vic. 3000 AUSDOC DX 216
Telephone: (03) 9670 7806 Facsimile: (03) 9670 1217 Email: legal@gkb.com.au
A.B.N. 20 081 022 654

GILL KANE & BROPHY

solicitors

Partners
E. L. Cooney
B. F. Brophy
K. Callil Roberts

Senior Associate
A. M. Duffy

Ms Margaret Buchanan
Deputy Industrial Registrar
Australian Industrial Registry
Level 8
Terrace Towers
80 William Street
EAST SYDNEY NSW 2011

Our Ref: A.MD:VP:
Email: a.m.duffy@gkb.com.au
Your Ref:

11 February 2002

Dear Ms Buchanan,

Elections in CFMEU – FFTS Union Division (Victorian Branch)

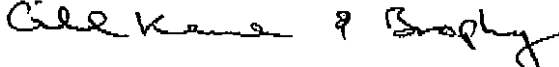
We refer to your telephone conversation with Alanna Duffy of this office in relation to the above matter earlier today. We act for Michael Haritou and are instructed to make the following comments in relation to the proposed elections in the CFMEU – FFTS Union Division (Victorian Branch).

We understand that elections have been sought for the positions of Victorian Divisional Branch Secretary, Victorian Divisional Vice President and Victorian Divisional Branch Conference Delegate to Divisional Conference. As you are aware, there a number of matters currently before the Federal Court involving the FFTS Division of the CFMEU. V1200 of 2001 is an application by our client challenging his dismissal from the office of Divisional Branch Secretary and his expulsion from the Division, which purportedly took effect on 1 November 2001. Matters V281 and V636 of 2001 concern the election of delegates to the Divisional Conference of the FFTS Union Division of the CFMEU.

We respectfully suggest that elections for the position of Branch Secretary and Divisional Conference Delegates not be held until the outstanding matters before the Federal Court have been determined.

Please contact Alanna Duffy of this office should you have any queries in relation to this correspondence.

Yours faithfully,
GILL KANE & BROPHY

Per: 

GILL KANE & BROPHY

solicitors

Partners
E. L. Cooney
B. F. Brophy
K. Callil Roberts
Senior Associate
A. M. Duffy

Ms Margaret Buchanan
Deputy Industrial Registrar
Australian Industrial Registry
Level 8
Terrace Towers
80 William Street
EAST SYDNEY NSW 2011

Our Ref: AMD:VP:
Email: aduffy@gkb.com.au
Your Ref:

11 February 2002

**CONFIRMATION
OF FACSIMILE**

Dear Ms Buchanan,

Elections in CFMEU – FFTS Union Division (Victorian Branch)

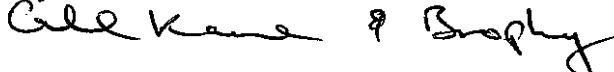
We refer to your telephone conversation with Alanna Duffy of this office in relation to the above matter earlier today. We act for Michael Haritou and are instructed to make the following comments in relation to the proposed elections in the CFMEU – FFTS Union Division (Victorian Branch).

We understand that elections have been sought for the positions of Victorian Divisional Branch Secretary, Victorian Divisional Vice President and Victorian Divisional Branch Conference Delegate to Divisional Conference. As you are aware, there a number of matters currently before the Federal Court involving the FFTS Division of the CFMEU. V1200 of 2001 is an application by our client challenging his dismissal from the office of Divisional Branch Secretary and his expulsion from the Division, which purportedly took effect on 1 November 2001. Matters V281 and V636 of 2001 concern the election of delegates to the Divisional Conference of the FFTS Union Division of the CFMEU.

We respectfully suggest that elections for the position of Branch Secretary and Divisional Conference Delegates not be held until the outstanding matters before the Federal Court have been determined.

Please contact Alanna Duffy of this office should you have any queries in relation to this correspondence.

Yours faithfully,
GILL KANE & BROPHY

Per: 

PR914620

Workplace Relations Act 1996
s.214(1) notification of casual vacancies

**Victorian Divisional Branch, FFTS Union Division,
Construction, Forestry, Mining and Energy Union**
(E2001/255)

DEPUTY INDUSTRIAL REGISTRAR BUCHANAN SYDNEY, 20 FEBRUARY 2002

DECISION

[1] This decision provides my reasons for not proceeding at this stage to make arrangements with the Australian Electoral Commission (AEC) under section 214(1) for the conduct of elections to fill vacancies in the positions of Victorian Divisional Branch Secretary, Victorian Divisional Branch President and Victorian Divisional Branch Conference Delegate.

[2] In a letter dated 30 November 2001, the Assistant Divisional Secretary of the FFTS Union Division of the Construction, Forestry, Mining and Energy Union, Mr Leo Skourdombis notified under section 214 (1) of the *Workplace Relations Act 1996* the casual vacancies in the above positions. The letter advised that the vacancy in the position of Victorian Divisional Branch Secretary arose from the dismissal of Mr Michael Haritou from the office of Victorian Divisional Branch Secretary and his expulsion from the Division and the vacancies in the positions of Victorian Divisional Branch President, and Victorian Divisional Branch Conference Delegate arose from the resignation of Mr Lou Kyriacou. A copy of the Victorian Branch Executive Meeting minutes of 1 November 2001 (unsigned) in relation to the dismissal of Mr Haritou was forwarded by facsimile transmission to this office on 10 December 2001.

[3] Previously this office had written on 25 June 2001 to the President of the FFTS Union Division, Mr Findlay, seeking advice on what steps the Division had taken or intended to take to fill the vacancies arising from the resignation of Mr Kyriacou. No response was received.

[4] In relation to the election notification I wrote to Mr Skourdombis on 14 December 2001 seeking advice of any court order, injunction or other court ruling which would affect the granting of a decision by a Registrar in relation to the positions for which he sought elections.

[5] In a further letter dated 21 January 2002, I advised Mr Skourdombis that I had not received any response to my earlier letter. Having considered the judgment and order of Gray J in V287 of 2001, I advised that it did not appear to me to have any direct relation to the positions of Divisional Branch Secretary or Divisional Branch President. However, arrangements for the filling of the vacancy in the position of Divisional Branch Conference Delegate had previously been made in my decision E207 of 2001 and I did not propose to make arrangements for the conduct of an election for this position again. Finally, I noted that unless I received advice by 4 February 2002 that there were proceedings before any Court disputing the vacancies of Branch Divisional Secretary or Branch Divisional President it was my intention to proceed with a determination of the matter and issue a decision in relation to them.

[6] Mr Haritou sought advice from the Industrial Registry on 30 January 2002 as to whether an application to conduct an election to fill the position of Branch Divisional Secretary had been lodged. On 6 February 2002 I spoke to Mr Haritou who advised that he was challenging the decision of the Victorian Branch Executive to dismiss him from office and expel him from the Division.

[7] Subsequently, on 11 February 2002, Mr Haritou's solicitors, Gill Kane and Brophy, wrote to me advising that there are a number of matters currently before the Federal Court of Australia involving the FFTS Union Division. Matter V1200 of 2001 is an application by Mr Haritou challenging his dismissal from the office of Divisional Branch Secretary and expulsion from the Division. Matters V281 and V636 of 2001 concern the election of delegates to the Divisional Conference of the Division.

[8] The reasons for judgment of Justice Finkelstein dated 8 February 2002 which dismissed the application by Mr Haritou for interim relief indicate there are approximately 16 matters before the Court concerning the FFTS Union Division (*Haritou v Skourdombis* [2002] FCA 116). It does not appear from the reasons for judgement that the Court was advised of the notification under section 214(1) of the casual vacancy in the position of Divisional Branch Secretary.

[9] Given the uncertainty surrounding the FFTS Union Division operations at present, as exemplified by the number of proceedings on foot before the Federal Court, and the lack of any forthcoming information from the Division that has been sought several times by this office about the conduct of elections, I propose to defer my consideration of the election request until I am satisfied that relevant Federal Court matters have been concluded.

[10] In this regard, I have considered the comments of Northrop and Evatt JJ in *Imlach v Daley* (1985) 60 ALR 377 at 380 that there is a duty on a Registrar to proceed to consider alterations to rules that are lodged and in normal circumstances a Registrar should not refrain from determining the alterations at

the request of a member. In that matter, the Court was determining the validity of rules which had not come into effect because of the Registrar's decision to refrain from considering their certification.

[11] In my view the dicta in *Imlach v Daley* (supra) do not apply to the matter before me. This decision concerns the making of arrangements with the AEC to conduct elections in three positions, two of which the vacancies are the subject of challenges currently before the Federal Court. The vacancy in the position of Divisional Branch Vice President occurred on 6 April 2001 for which the request to fill the vacancy was not made until some 6 months later. Although I am not aware of any specific challenge to this vacancy, there does not appear to be any overwhelming reason to separate the consideration of making arrangements for the conduct of an election with the AEC for this position in isolation from the other Victorian Branch positions.



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**FAX COVER SHEET**

FROM STEPHEN KELLETT
 AUSTRALIAN INDUSTRIAL REGISTRY, SYDNEY

TO HELEN KUREK
 EXECUTIVE ASSISTANT TO JUSTICE FINKELSTEIN
 FEDERAL COURT OF AUSTRALIA

FAX NO 03 8600 3645

DATE 20/2/2002

RE DECISION IN RELATION TO AN APPLICATION FOR THE
 CONDUCT OF AN ELECTION UNDER S214(1) WORKPLACE
 RELATIONS ACT 1996

 VICTORIAN DIVISIONAL BRANCH, FFTS UNION DIVISION,
 CFMEU

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030	MEMORY TX		0396701217	05/05	OK

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**FAX COVER SHEET**

FROM STEPHEN KELLETT
 AUSTRALIAN INDUSTRIAL REGISTRY, SYDNEY

TO GILL KANE & BROPHY

FAX NO 03 9670 1217

DATE 20/2/2002

RE DECISION IN RELATION TO AN APPLICATION FOR THE
 CONDUCT OF AN ELECTION UNDER S214(1) WORKPLACE
 RELATIONS ACT 1996

 VICTORIAN DIVISIONAL BRANCH. FFTS UNION DIVISION.



AUSTRALIAN INDUSTRIAL REGISTRY

Level 8, Terrace Towers
80 William Street, East Sydney, NSW 2011
Telephone: (02) 8374 6666
Fax: (02) 9380 6990

Electoral Commissioner Through
Australian Electoral Officer for Victoria

**Re: Construction, Forestry, Mining and Energy Union, FFTS Union Division,
Victorian Divisional Branch,
(E No. 255 of 2001)**

I confirm my facsimile message of 20 February 2002 and enclose a copy of the Registrar's Decision in relation to the conduct of an election in the abovenamed organisation under section 214 of the *Workplace Relations Act 1996*.

Yours sincerely

Stephen Kellett
for Deputy Industrial Registrar

20 February 2002

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- 3) NO ANSWER
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FAX COVER SHEET

FROM STEPHEN KELLETT
 AUSTRALIAN INDUSTRIAL REGISTRY, SYDNEY

TO JOHN NELLOR
 AEC VICTORIA



AUSTRALIAN INDUSTRIAL REGISTRY

Level 8, Terrace Towers
80 William Street, East Sydney, NSW 2011
Telephone: (02) 8374 6666
Fax: (02) 9380 6990

The Director, Non-Parliamentary Elections
Australian Electoral Commission
PO Box E 201
KINGSTON ACT 2604

**Re: Construction, Forestry, Mining and Energy Union, FFTS Union Division,
Victorian Divisional Branch**

(E No 255 of 2001)

I enclose a copy of a Decision made under section 214 of the *Workplace Relations Act 1996*.

Stephen Kellett
for Deputy Industrial Registrar

20 February 2002



AUSTRALIAN INDUSTRIAL REGISTRY

Level 8, Terrace Towers
80 William Street, East Sydney, NSW 2011
Telephone: (02) 8374 6666
Fax: (02) 9380 6990

Mr Rick Fowler
Executive Officer
CFMEU
Box Q235, QVB Post Office
SYDNEY NSW 1230

Dear Mr Fowler

**Re: Arrangements for the conduct of an Election
(E No. 255 of 2001)**

A copy of the Registrar's Decision in relation to the above matter is enclosed in confirmation of my facsimile earlier today.

Yours Sincerely

Stephen Kellett
for Deputy Industrial Registrar

20 February 2002

THE FOLLOWING FILE(S) ERASED

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FAX COVER SHEET

FROM STEPHEN KELLETT
 AUSTRALIAN INDUSTRIAL REGISTRY, SYDNEY

TO RICK FOWLER
 C/- NATIONAL OFFICE CFMEU

FAX NO 02 9267 2460

DATE 20/2/2002

REGISTRATION IN RELATION TO AN APPLICATION FOR THE



AUSTRALIAN INDUSTRIAL REGISTRY

Level 8, Terrace Towers
80 William Street, East Sydney, NSW 2011
Telephone: (02) 8374 6666
Fax: (02) 9380 6990

Mr Leo Skourdoumbis
Assistant Secretary, Victorian Branch, FFTS Union Division
CFMEU
130 Errol Street
NORTH MELBOURNE VIC 3051

Dear Mr Skourdoumbis

**Re: Arrangements for the conduct of an Election
(E No. 255 of 2001)**

A copy of the Registrar's Decision in relation to the above matter is enclosed in confirmation of my facsimile earlier today.

Yours Sincerely

Stephen Kellett
for Deputy Industrial Registrar

20 February 2002

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093	MEMORY TX		0393282228	05/05	OK

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FAX COVER SHEET

FROM STEPHEN KELLETT
 AUSTRALIAN INDUSTRIAL REGISTRY, SYDNEY

TO LEO SKOURDOUMBIS
 VIC BRANCH FFTS UNION DIVISION, CFMEU

FAX NO 03 9328 2228

DATE 20/2/2002

RE ELECTION E2001/255

Dear Sir

Please find following a Decision of Deputy Industrial Registrar Margaret



AUSTRALIAN INDUSTRIAL REGISTRY

Level 8, Terrace Towers
80 William Street, East Sydney, NSW 2011
Telephone: (02) 8374 6666
Fax: (02) 9380 6990

Mr Rick Fowler
Executive Officer
CFMEU
Box Q235, QVB Post Office
SYDNEY NSW 1230

Dear Mr Fowler

**Re: Arrangements for the conduct of an Election -
Victorian Divisional Branch, FFTS Division
(E No. 255 of 2001)**

I refer to the application for an election for the positions of Branch Secretary and Branch Vice President of the above Branch, which was lodged in the Registry on 30 November 2001. You will be aware that on 20 February 2002, Deputy Industrial Registrar Buchanan issued a decision deferring further consideration of the election request until she could be satisfied that relevant Federal Court matters had been concluded.

To date no information has been provided to the Registry that would indicate that the relevant proceedings have concluded. I would appreciate advice from the organisation as to whether the situation has changed in respect of the Federal Court, and whether or not the Branch wishes the Registry to proceed with consideration of the matter, and if not, whether it wishes to withdraw the application.

I look forward to hearing from the organisation or branch at your earliest convenience.

Yours sincerely

Stephen Kellett
for Deputy Industrial Registrar

22 July 2002



CONSTRUCTION, FORESTRY, MINING and ENERGY UNION

F.F.T.S. Union Division (Victorian Branch)

130 Errol Street, North Melbourne, Vic. 3051

Telephone: (03) 9329 1577 (6 lines) Fax: (03) 9328 2228

E-mail: ffts@ffts.cfmeu.asn.au



23 July 2002

File Ref. IRF-02.98

via fax transmission (02) 9380 6990

Attention: Stephen Kellett

Ms Margaret Buchanan
Deputy Industrial Registrar
Australian Industrial Relations Commission
Level 8, Terrace Towers
80 William Street,
EAST SYDNEY 2011

Dear Ms Buchanan

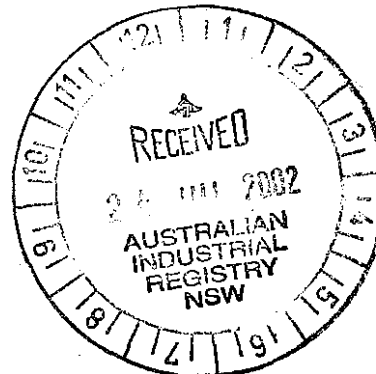
**RE: Arrangement for the conduct of an Election
Victorian Divisional Branch FFTS (E No. 255 of 2001)**

We refer to our application for an election for the positions of Branch Secretary and Branch Vice President and advise that due to Rule changes certified by the Australian Industrial Relations Commission which was the end result of a restructuring of the Union, elections for the aforementioned positions in the Victorian Branch is no longer necessary. As such, we wish to withdraw the application for the election.

Yours faithfully

**Leo Skourdoumbis
Branch Secretary
CFMEU - Victorian FFTS Branch**

Cc: Rick Fowler - CFMEU, National Office



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- 2) BUSY
- 3) NO ANSWER
- 4) NO FACSIMILE CONNECTION



FAX COVER SHEET

FROM STEPHEN KELLETT
 AUSTRALIAN INDUSTRIAL REGISTRY, SYDNEY

TO JOHN NELLOR
 AEC

FAX NO 03 9285 7149



AUSTRALIAN INDUSTRIAL REGISTRY

Level 8, Terrace Towers
80 William Street, East Sydney, NSW-2011
Telephone: (02) 8374 6666
Fax: (02) 9380 6990

Mr Rick Fowler
Executive Officer
CFMEU
Box Q235, QVB Post Office
SYDNEY NSW 1230

Dear Mr Fowler

**Re: Arrangements for the conduct of an Election -
Victorian Divisional Branch, FETS Division
(E No. 255 of 2001)**

Please see attached my letter in reply to correspondence received in relation to the above matter.

Yours sincerely

Stephen Kellett
for Deputy Industrial Registrar

24 July 2002



AUSTRALIAN INDUSTRIAL REGISTRY

Level 8, Terrace Towers
80 William Street, East Sydney, NSW 2011
Telephone: (02) 8374 6666
Fax: (02) 9380 6990

Mr Leo Skourdoumbis
Branch Secretary, Victorian FFTS Branch
CFMEU
130 Errol Street
NORTH MELBOURNE VIC 3051

Dear Mr Skourdoumbis

**Re: Arrangements for the conduct of an Election -
Victorian Divisional Branch, FFTS Division
(E No. 255 of 2001)**

Thank you for your letter dated 23 July 2002 withdrawing the above application.

Accordingly, and under the circumstances, the application will be regarded as withdrawn and the file closed. I have forwarded a copy of this correspondence to the Australian Electoral Commission, Victoria, for the record.

Yours sincerely

Stephen Kellett
for Deputy Industrial Registrar

24 July 2002

cc. Rick Fowler
Executive Officer, CFMEU