

18 February 2016


Chris Enright
Director
Regulatory Compliance Branch
Fair Work Commission
GPO Box 1994
MELBOURNE VIC 3001

Dear Mr Enright

Health Services Union Queensland Branch: non-lodgement of financial reports for years ending 30 June 2000 to 30 June 2010

I refer to your correspondence dated 9 February 2016 regarding the above matter and I acknowledge receipt of that correspondence.

Your sincerely



Chris Brown
National Secretary





9 February 2016

Mr Chris Brown
National Secretary
Health Services Union
Suite 1
Level 3, 377 Sussex Street
SYDNEY NSW 2000

via email: chrisb@hsu.net.au
jonathan.milman@hsu.asn.au

Dear Mr Brown

Health Services Union Queensland Branch: non-lodgement of financial reports for years ending 30 June 2000 to 30 June 2010

I refer to previous correspondence and discussion with you regarding outstanding financial reports for the Queensland Branch of the Health Service Union (**HSU**) for the financial years ending 30 June 2000 to 2010.

As you are aware, the *Fair Work (Registered Organisations) Act 2009 (RO Act)* requires the Queensland Branch of the HSU to lodge audited financial reports with the Fair Work Commission (**the Commission**) within six months and 14 days of the end of its financial year (that is, no later than 15 January). It is a requirement of the RO Act that:

- a General Purpose Financial Report (**GPFR**) and an operating report be prepared as soon as practicable after the end of the financial year (ss.253, 254);
- that the full report (consisting of the GPFR, operating report and auditor's report) be presented to a general meeting of members, or to a meeting of the branch Committee of Management, within six months after the end of the financial year (s.266); and
- a copy of the full report must be provided to members at least 21 days before the general meeting or if presented to a branch Committee of Management meeting within five months after the end of the financial year (s.265(5)).

You have advised that, due to the failure by the then Queensland Branch Committee of Management to keep proper or adequate financial records, financial reports for the years ending 30 June 2000 to 30 June 2010 are not able to be prepared, in breach of the above requirements of the RO Act.

It also appears that the Health Services Union failed to lodge the required information for the Queensland Branch in the annual returns for the years 2006 to 2013 as required by s.233.

I consider the prolonged non-compliance by the Queensland Branch to be a serious matter. The standards set out in the RO Act are directed to ensuring that registered organisations are: accountable to their members; efficiently managed and operate effectively; and enable participation by members in the affairs of the organisation. The consequence of the

contraventions is that the Branch has not been accountable to its members and members have been deprived of the opportunity to be informed of the financial position of the Branch and to otherwise participate in the affairs of the organisation, contrary to the objects of the RO Act.

Officers of an organisation are also held to high standards and must comply with the general duties in relation to the financial management of the organisation. The failure by the then Branch Secretary to comply with these requirements and the lack of oversight by then National Executive, may also amount to a breaches of the general duties of officers as set out in Part 2 of Chapter 9 of the RO Act.

However, I also acknowledge the extensive and voluntary action taken by the current National Executive and new Branch Committee of Management to rectify these matters. In particular, that the National Executive has taken steps to reconstitute the Branch and has put in place internal governance mechanisms to ensure proper oversight of the Queensland Branch. As a result, the Branch now has a new Committee of Management, and has lodged the outstanding financial reports for the financial years ending 30 June 2011 to 30 June 2013 and complied with its reporting requirements for the financial year ending 30 June 2014 and 30 June 2015.

It is also a relevant consideration that: both the former Queensland Branch office holders and National Secretaries are no longer officers of the union; that the number of members of the Branch is small; and the current National Executive has been fully cooperative.

Having regard to these matters, it is not considered it would be in the public interest to commence a formal investigation into these matters and I advise that the Commission will close off the financial reports for the Queensland Branch of the HSU for the years 30 June 2000 to 30 June 2010 and annual returns for the years 2006 to 2013.

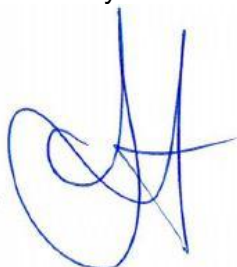
However, the Commission will continue to closely monitor the Queensland Branch and will take prompt action in response to any further contraventions. You are on notice that any future non-compliance by the Queensland Branch will be treated very seriously, with the earlier non-compliance taken into account in deciding what action to take.

I also note that in a meeting on 16 September 2015, you raised the possibility of an amendment to the HSU Rules to abolish the Queensland Branch and have the Tasmanian Branch look after the interests of members in Queensland. Please note that until such change to the HSU Rules is approved, the Queensland Branch must adhere to all requirements under Part 3 of Chapter 8 of the RO Act. I would request that you continue to keep the Commission updated regarding the status of the Queensland Branch.

If you would like to discuss any aspect of the above, please contact me on 8656 4680 or Joanne Fenwick, Financial Reporting Specialist on 8656 4681.

Please acknowledge your receipt of this correspondence by Friday 19 February 2016.

Yours sincerely



Chris Enright
Director
Regulatory Compliance Branch

cc. Jonathan Milman, Queensland Branch Secretary

SCHULTZ, Andrew

From: Clem OShannessy [REDACTED]
Sent: Wednesday, 28 March 2007 7:25 AM
To: SCHULTZ, Andrew
Subject: Re: Financial Reports

Hi Andrew

Will ring you today regarding the Financials. Sorry I sent them yesterday afternoon including the 2004. The 2005 will be sent next week and 2006 the week after.

Will ring you around 10:30am this morning.

Thanks

Clem

----- Original Message -----

From: "SCHULTZ, Andrew" <Andrew.SCHULTZ@air.gov.au>
To: [REDACTED]
Sent: Friday, 23 March, 2007 9:56:16 AM
Subject: Re: Financial Reports

Dear Clem,

Re: Financial Reports for HSU - Queensland Branch

Thank you for your telephone call and email this morning relating to the above matters

If you require any further assistance regarding these matters please contact me.

Regards.

Andrew Schultz

Research Information and Advice Branch

Australian Industrial Registry

Ph: (03) 8661 7990

Email: andrew.schultz@air.gov.au

From: Clem OShannessy [mailto:[REDACTED]]
Sent: Friday, 23 March 2007 10:36 AM
To: SCHULTZ, Andrew
Cc: Craig Thomson; Mark McLeay
Subject: Re: Attention: Clem O'Shannessy & Craig Thomson

Dear Andrew

Thank you for your time this morning regarding the outstanding Financials.

I confirm with you our conversation that the financial reports (2000 to 2003) that I sent last year is not your computer system. I told you that I will send you copies of those financial reports this afternoon and the others (2004 to 2006) following my BCOM meeting on Monday.

I will give you a ring on Wednesday next week to see if you have received the ones I will be sending this afternoon.

Thank you once again for your time this morning.

5/04/2007

Clem O'Shannessy
State Branch Secretary
Health Services Union Qld Branch

----- Original Message -----

From: "SCHULTZ, Andrew" <Andrew.SCHULTZ@air.gov.au>

To: [REDACTED]

Cc: hsua@hsua.asn.au

Sent: Monday, 19 March, 2007 2:48:39 PM

Subject: Attention: Clem O'Shannessy & Craig Thomson

Dear Clem and Craig,

Re: Outstanding Financial Accounts for HSU-Qld Branch

Please find enclosed a letter relating to the above matter.

Would you be able to arrange a response to the letter by 30 March 2007.

Regards,

Andrew Schultz
Research Information and Advice Branch
Australian Industrial Registry

Ph: (03) 8661 7990

Email: andrew.schultz@air.gov.au

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Clem O'Shannessy
State Branch Secretary
Health Services Union Qld Branch

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Andrew Schultz
Research Information and Advice Branch
Australian Industrial Registry

Ph: (03) 8661 7990
Email: andrew.schultz@air.gov.au

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Australian Government
Australian Industrial Registry

Level 5, 11 Exhibition St, Melbourne Vic 3000
GPO Box 1994, Melbourne, VIC 3001
Telephone: (03) 8661 7990
Fax: (03) 9655 0410

Mr Clem O'Shannessy
Health Services Union
Queensland Branch
PO Box 215
MANUNDA QLD 4870

By email - [REDACTED] u

Dear Mr O'Shannessy,

**Re: Outstanding Financial Documents - Years ending 30 June 2000-2006
FR2003/356-8, FR2004/256, FR2004/594, FR2005/409, FR2006/332**

There is no record of receipt in this office of the financial reports for the Queensland Branch of the HSU, prepared under the Workplace Relations Act 1996, for the seven financial years: 30 June 2000 to 30 June 2006¹.

As you would be aware, every year an organisation or branch is required to:

1. Prepare financial accounts and statements,
2. Make the audit report,
3. Provide copies of the financial documents to the members,
4. Present the documents to a meeting, and
5. Lodge copies of the documents in the Industrial Registry.

Please note that failure to lodge financial documents is a penalty provision.²

Accordingly, could you contact this office by Friday 30 March 2007 to advise what steps are awaiting further action or any other reason for the delay in lodging the above accounts.

Background information

On 20 September 2004 we discussed by telephone the financial reports for years ending 30 June 2000 to 2002. At that time you indicated that these financial returns were being completed and were to be presented to the Branch AGM on 25 September 2004. The records of the Registry do not indicate that these financial documents have yet been lodged.

Further information

For further information regarding financial reporting see www.airc.gov.au/fact_sheets/factsheets.html. For sample financial reports as lodged by other branches of the HSU see: www.e-airc.gov.au/051v/.

Yours faithfully,

Andrew Schultz
Statutory Services Branch
19 March 2007

Tel: (03) 8661 7990
Fax: (03) 9655 0410
Email: andrew.schultz@air.gov.au

c.c. Mr Craig Thomson, HSU National Secretary

¹ Financial returns for years ending 30 June 2004 to 2006 should comply with the 'RAO Schedule' (Schedule 1 of the Workplace Relations Act 1996). Prior financial years should comply with the previous requirements of the Act.

² See s268 and s305(2)(ze) of the RAO Schedule.