

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.

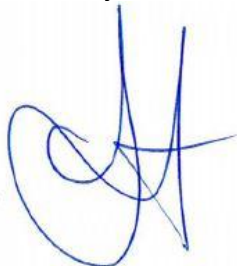
However, the Commission will continue to closely monitor the Queensland Branch and will take prompt action in response to any further contraventions. You are on notice that any future non-compliance by the Queensland Branch will be treated very seriously, with the earlier non-compliance taken into account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



Australian Government
Australian Industrial Registry

Australian Industrial Registry
11 Exhibition Street
Melbourne 3000
Telephone: (03) 8661 7777
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Ref: FR2007/465-[051V-QLD]

Mr Clem O'Shannessy
Branch Secretary
Health Services Union-Queensland Branch
Shop 2/ 292 Severin St
Cairns Qld 4870

Dear Mr O'Shannessy

**Re: Health Services Union-Queensland Branch
Outstanding Financial Documents - *Workplace Relations Act 1996***

The Accounts and Audit Part of Schedule 1 of the *Workplace Relations Act 1996* requires, as a general rule, that the audited financial statements of a reporting unit of a registered organisation, be lodged in the Industrial Registry within 6 months and 14 days from the end of its financial year.

To date, the Registry has no record of lodgement of the financial reports of the above named reporting unit for the year ended 30 June 2004, 30 June 2005, 30 June 2006 and 30 June 2007.

In particular there is no record of lodgement of copies of:

- the general purpose financial report (which includes the Committee of Management Statement);
- the auditor's report; and
- the operating report.

These three reports are referred to as the "full report".

Section 268 of the RAO Schedule¹ requires that a copy of the full report be lodged in the Registry within 14 days (or such longer period a Registrar allows) after the full report is presented to a general meeting of members (or to a committee of management meeting if the rules make provision consistent with s266(3)).

Section 266 (1) requires that the full report be presented to the meeting within 6 months of the end of the financial year. Therefore, lodgement of the documents in the Registry was required by **14 January, 2008.**

Section 305(2)(ze) of the RAO Schedule is a civil penalty provision. It provides that a failure to meet the requirements of s268 is a contravention of that civil penalty provision. The Federal Court may on application of the Industrial Registrar impose a pecuniary penalty on the person or organisation whose conduct contravened the civil penalty provision.

I also draw your attention to the provisions of Part 1 of Chapter 9 of the RAO Schedule which set out the general duties of officers and employees of organisations and their branches in relation to financial management.

In the absence of lodgement of a copy of the full report, I request you state in writing, for each of the outstanding financial years, by **20 August 2008:**

- whether a Committee of Management Statement and an Operating Report have been prepared;
- whether the auditor has audited the general purpose financial report and if so, the date on which the auditor signed the audit report;
- whether the full report has been provided to members, and if so, when;

¹ Schedule 1 of the Workplace Relations Act 1996

- whether the full report provided to the members has been presented to a general or committee of management meeting, and if so, when;
- when a copy of the full report will be lodged in the Industrial Registry.

The full report when lodged must be accompanied by a Designated Officer's Certificate certifying that the documents lodged are copies of the documents provided to members and presented to the general or committee of management meeting in accordance with s266.

You can access the Commission's website where a new site has been created dealing with:

- RAO Fact sheets - These Fact Sheets explain the requirements of the RAO Schedule - many of them deal with financial reporting matters.
- Financial Reporting Sample Documents – Sample Committee of Management's Statement, Designated Officer's Certificate and checklists for illustrative purposes.
- Registrar's Reporting Guidelines - The GPFR must comply with these Guidelines. Please note that the Guidelines set out requirements that are *in addition* to those required by the Australian Accounting Standards.
- RAO Schedule and RAO Regulations

These documents can be accessed at: <http://www.airc.gov.au/registered/FR/information.htm>.

The Registry strongly encourages your organisation to lodge documents electronically by either:

- Sending an email with the documents attached to: orgs@air.gov.au
- Sending the documents by fax to: (03) 9655 0410

If you wish to discuss this letter, please contact Robert Pfeiffer on (03) 8661 7817. In reply please quote: **FR2007/465**.

Yours sincerely



Peter Nicholson for
Robert Pfeiffer
Statutory Services Officer

E-mail: robert.pfeiffer@air.gov.au

31 July 2008