

# Shop, Distributive and Allied Employees Association Scheduled Election Qld Branch Secretary/Treasurer 2013

## DECLARATION OF RESULTS FOR UNCONTESTED OFFICES

Results of the election for the following offices conducted in accordance with the provisions of the Fair Work (Registered Organisations) Act 2009 and the rules of the organisation.

E2013/136

### Queensland Branch

#### Secretary / Treasurer

##### Candidate

KETTER, Christopher Ronald

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



Andrew Reid  
Returning Officer

24 June 2013



Fair Work (Registered Organisations) Act 2009

**POST ELECTION REPORT**

**Shop, Distributive and Allied Employees' Association,  
Queensland Branch**

**ELECTION/S COVERED IN THIS REPORT**

Election Decision No/s: E2013/136

**RULES**

Rules used for the election: 006N-QLD: Incorporates alterations of  
14/10/2011[R2011/204]  
006N: Incorporates alterations of 16/11/10 [R2010/119]

Rules difficult to apply/interpret: Rules identifying membership criteria for paid organisers.

Model Rule reference (if any): 006N-QLD: 15 (c)  
006N: 3 (Part 3)

**ROLL OF VOTERS**

As there were no contested offices, no Roll of Voters was required.

**IRREGULARITIES**

Details of written allegations of irregularities, and action taken by AEC:

An application for an Inquiry was lodged with the Federal Court, Queensland District Registry, in relation to the election for this office. The applicant applied for an interim order concerning an election for office for the position of Secretary Treasurer, seeking to have the candidacy of Alan Swetman denied. The applicant is also claimed interlocutory relief to put a stay on the election until the application for Inquiry was resolved. This application was heard on the 18<sup>th</sup> of June 2013. The decision was issued by Federal Court on 18 June 2013 to reject Alan Swetman's nomination on the grounds he did not meet the eligibility requirements for contesting this election. Therefore, the election was declared as uncontested as there was only one eligible candidate on 24 June 2013.

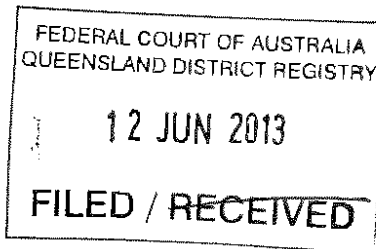
**ATTACHMENTS**

- 1) Declaration of Results for Uncontested Offices
- 2) Served Federal Court Application Papers
- 3) Federal Court of Australia – ORDER (P) QUD315/2013

  
Andrew Reid  
Returning Officer  
27 June 2012

### Originating application for inquiry relating to an election

Federal Court of Australia  
District Registry: Queensland  
Division:



No. of 20

QUD-315/13

The application of **Ellen Michele Beswick**  
Applicant

In the matter of an election for an office in the Shop Distributive & Allied Employees' Association

To Alan Swetman

The Applicant applies for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

**Time and date for hearing:** Not before 10:15am **TUESDAY 18 JUN 2013**

**Place:** Harry Gibbs Commonwealth Law Courts Building at 119 North Quay, Brisbane QLD

Date: **14 JUN 2013**

Signed by an officer acting with the authority  
of the District Registrar



Filed on behalf of (name & role of party) Ellen Michele Beswick, Applicant  
Prepared by (name of person/lawyer) Vincent Kartelo  
Law firm (if applicable) Sciaccas Lawyers and Consultants  
Tel (07) 3867 8808 Fax (07) 3229 9482  
Email v.kartelo@sciaccas.com.au  
**Address for service** Level 4, 270 Adelaide Street, Brisbane QLD 4000  
(include state and postcode)

### **Applicant's application**

The Applicant is: a member of the Shop Distributive & Allied Employees' Association.

The Applicant applies under section 200 of the *Fair Work (Registered Organisations) Act 2000* for an inquiry into the alleged irregularities set out below that the Applicant claims have occurred in relation to the election specified in this application.

The Applicant relies on the facts stated in the accompanying affidavit.

### **Accompanying affidavit**

This application must be accompanied by an affidavit stating briefly but specifically, the nature of the applicant's claim and the material facts on which the claim is based.

### **Particulars of election**

1. Organisation or branch: Shop Distributive & Allied Employees Association
2. Office or offices: Secretary/Treasurer of the Queensland Branch.
3. The result of the election has not been declared.

### **Particulars of alleged irregularities**

1. The Respondent is not eligible to be a candidate because:
  - (a) when he took out membership in the organisation he was an employed organiser of the Shop Distributive & Allied Employees Association ("the organisation");
  - (b) when he took out membership in the organisation he was not employed in an industry or calling covered by the eligibility rule of the organisation;
  - (c) when he took out membership in the organisation he was not an elected official of the organisation;
  - (d) he was not and is not eligible for membership of the organisation under the rules of the organisation;
  - (e) his membership of the organisation was merely that of an honorary member (such honorary members not being eligible to stand for office);
  - (f) his honorary membership has been terminated;
  - (g) he is no longer employed as an organiser.
2. The acceptance of the Respondent's nomination by the returning officer is therefore an irregularity within the meaning of the Fair Work Registered Organisations Act 2009



**Applicant's address**

The Applicant's address for service is:

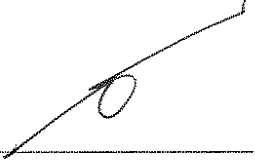
Place: Sciacca's Lawyers and Consultants, level 4, 270 Adelaide Street, Brisbane QLD 4000

Email: [v.kartelo@sciaccas.com.au](mailto:v.kartelo@sciaccas.com.au)

The Applicant's address is Sciacca's Lawyers and Consultants, level 4, 270 Adelaide Street, Brisbane QLD 4000. (GPO Box 128, Brisbane QLD 4001).



Date: 11 June 2013

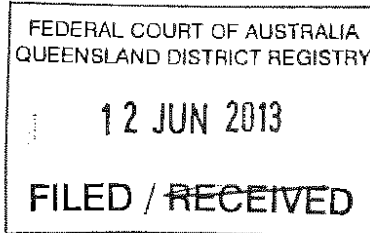
  
\_\_\_\_\_  
Signed by Vince Kartelo  
Lawyer for the Applicant

Form 59  
Rule 29.02(1)

## Affidavit

No. \_\_\_\_\_ of 2013

Federal Court of Australia  
District Registry: Queensland  
Division:



QUD - 315 / 13

**Ellen Michele Beswick**

Applicant

**Alan Swetman**

Respondent

Affidavit of: **Ellen Michele Beswick**

Address: 23 Warren Crescent, Deception Bay QLD 4508

Occupation: Shop Distributive & Allied Employee's Association shop steward – Coles Kippa Ring.

Shop Distributive & Allied Employee's Association Vice President (QLD branch), member of state council.

Date: 11.06.2013

### Contents

Document number	Details	Paragraph	Page
	Affidavit of Ellen Michele Beswick in support of Form 85 Originating Application for inquiry relating to an election sworn on 11 June 2013.		
1	Annexure "EMB1", being copy of a letter from Mr Christopher Ketter to the respondent dated 22 May 2013.	5	5
2	Annexure "EMB 2", being copy of an email from the respondent to Mr Ketter dated 23 May 2013.	7	7
3	Annexure "EMB 3", being a copy of a letter from Mr Christopher Ketter to the respondent dated 23 May 2013.	7	8

Filed on behalf of (name & role of party) Ellen Michele Beswick

Prepared by (name of person/lawyer) Vince Kartelo

Law firm (if applicable) Sciacca's Lawyers and Consultants

Tel (07) 3867 8808 Fax (07) 3229 9482

Email v.kartelo@sciaccas.com.au

Address for service Level 4, 270 Adelaide Street, Brisbane QLD 4000  
(include state and postcode)

Document number	Details	Paragraph	Page
5	Annexure "EMB 4", being a copy of an email from Mr Andrew Reid to Mr Chris Gazenbeeck dated 5 Jun 2013.	9	10
6	Annexure "EMB 5" being a copy of a letter from Mr Andrew Reid to Mr Chris Gazenbeeck dated 5 Jun 2013 detailing accepted nominations.	10	12
7	Annexure "EMB 6" being a copy of a letter from Mr Andrew Reid to Mr Chris Gazenbeeck dated 5 Jun 2013 requesting a copy of the SDA's list of members	11	14

I Ellen Michele Beswick say on oath:

1. I have been a member of the Shop Distributive & Allied Employees' Association (SDA) for 36 years. I have been a member of the Branch Council of Management for 15 years (since 1998) and was appointed as Vice President in 2002.

### **The Respondent**

2. The respondent was employed by the SDA on 1 December 1994 as a full time organiser.
3. As Vice President and before that as a council member, I know that when persons are employed as organisers with the SDA they are required to pay SDA fees. I know this is the usual practice of the SDA since the SDA would not expect organisers/officials to ask prospective members to pay a fee they are not prepared to pay themselves.
4. The Respondent's employment history was such that I do not believe that he was eligible for membership of the SDA. However, he was entitled to be treated as an honorary member whilst employed as an organiser.

### **Background to the dispute**

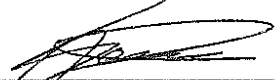
5. On 22 May 2013, I attended an SDA special meeting of the committee of management. Mr Christopher Ronald Ketter, branch secretary, provided a report detailing the performance and activities of the Respondent. In addition, Mr Ketter tabled a number of documents which included:
  - (a) Evidence of the Respondent's use of his SDA mobile phone for person business.

- (b) A letter dated 22 May 2013, Mr Ketter wrote to the respondent asking him to show cause as to why his employment should not be terminated, (annexed and marked EMB 1).
6. The meeting unanimously endorsed Mr Ketter's actions and agreed to the termination of the Respondent's employment and membership with the SDA should he fail to justify his actions by noon on 23 May 2013.
7. On 23 May 2013, I attended an SDA special meeting of the State Council where Mr Ketter provided a report on the Respondent's actions since the SDA committee of management meeting of 22 May 2013. The following documents were tabled:
- (a) The Respondent's reply to Mr Ketter's letter (annexed and marked EMB 2).
- (b) A letter Mr Ketter had prepared to the Respondent, terminating his employment with the SDA, annexed and marked EMB 3.
8. The Special Meeting of State Council unanimously endorsed Mr Ketter's actions and the decision of the Special Committee of Management to terminate the Respondent's employment and his membership with the SDA.
9. On 5 June 2013, Mr Chris Gazenbeek received an email from Mr Andrew Reid of the Australian Electoral Commission (annexed and marked EMB 4).
10. The email enclosed two letters; the first dated 5 June 2013 detailed two accepted nominations for the upcoming election of Secretary Treasurer, these being the Respondent and Mr Ketter. Annexed and marked EMB 5 is a copy of this letter.
11. The second letter dated 5 June 2013 requested Mr Gazenbeek provide a list of members from the SDA. Annexed and marked EMB 6 is a copy of this letter.



Sworn / Affirmed by the deponent )  
at SDA, 385 ST PAULS TERRACE )  
in ~~SPRING~~<sup>NS</sup> HILL @LTD )  
on FORTITUDE VALLEY )  
Before me: 14 JUNE 2013

E. M. Beswick.  
Signature of deponent

  
Signature of witness

Name: NATALIE SPENCE  
SOLICITOR, SUACCA'S LAWYERS & CONSULTANTS

22 May 2013



EMB 1

Mr Alan Swetman  
7 Woongarra Street  
The Gap QLD 4061

Dear Alan,

I write to advise of my serious concerns about the suitability of your ongoing employment with the union and that you are suspended immediately from all union duties pending your responses to the matters listed below.

As you know, on 2 occasions last year I raised my concerns about your work performance. In fact as you recall, you provided no excuses for your poor performance and offered to resign. As you recall, I proposed that as a final opportunity for you to retain your employment that you perform recruitment work in certain distribution centres for one day per week as part of your normal work schedule.

It is now a matter of record that your work performance has shown no sign of improvement since last year.

You have exhibited a pattern of absenteeism, including sick leave this year coinciding with almost every organisers meeting, including the most recent meeting on Monday 20 May 2013, it has become clear on the evidence that this has become a device to avoid accountability for your poor performance.

To make matters worse, on Friday one of our long term shop stewards - Lisa Black - was irate that you failed to attend a meeting with her, which had already been postponed by you from the previous week. I have been awaiting the opportunity to discuss this serious matter with you. You have indicated since Monday 20<sup>th</sup> May 2013 that you have been too sick to work. Our records show that your union phone has been utilized in suburbs some distance from your home - this activity is inconsistent with genuine sickness.

Most alarming of all it would appear that you are operating a private commercial business - "Home Business Personal Development" - advertising the union mobile phone to further your personal business interests. I require that you show cause as to why you should not be expelled from the union for apparently misusing and obtaining personal gain from union property. Given all the above matters we needed to bring this matter to some finality and in light of the pattern of using sick leave to avoid accounting for your performance, a visit to your home this morning became necessary.

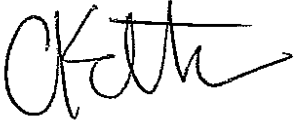
Accordingly you have until 12noon tomorrow (23 May 2013) to respond to these matters and to give reasons as to why your services should not be terminated immediately and why you should not be expelled from the union. You will need to advise by that time of arrangements for the return of all union property.

Failure to respond by that time will result in the termination of your employment.

EMB1

I will also require that you sign a Statutory Declaration that you have returned all union property (including membership lists, records or other documents in paper or electronic form), that you have not retained such union property and nor have you transferred to other person(s) such union property who is not authorized to possess, control or in any other way deal with such property.

Yours Faithfully,

A handwritten signature in cursive script, appearing to read "CKetter", with a long horizontal flourish extending to the right.

Chris Ketter  
SECRETARY

**Chris Ketter**

---

**From:** aswetman@tpg.com.au  
**Sent:** Thursday, 23 May 2013 11:56 AM  
**To:** Chris Ketter

To answer your letter

As a member of the SDA I'm saddened you have taken these extraordinary measures against some one who is running against you Chris

You did take me in to your office only to belittle me telling me I didn't care about members because I was not signing enough up for your liking you told me you felt I couldn't do anything in the SDA,we parted and I had some sick time I came back and you wanted to know what I thought about what was said I told you I could only take it one way you said I must have misunderstood ,and I walked out of the room with more work two warehouses to visit ,which I was happy to do ,there was never any discussion about a final opportunity that did not happen. How do you gauge work performance Chris ,when the 2ic keeps giving you work ,all issues you do them but you only want numbers Chris ,you created a separate group last year and you told them not to do issues only recuite I got the issues ,Chris you told all the organisers that you were not interested I retention,what had we become .

Yes Chris I get sick I'm on sick leave now ,I will try and get sick on another day in the future ,lots of people had had sick leave Anthony ,Rosa,Marie ,Michelle Naomi and a string of others,i'm not sure if Chris g had told you he was sending me on Monday to issues to fix I hope he has ,Tony Staypalton the person you sent to tell me not to run against you told me on accountability he has only filled one report no one asks for them so he feels no one cares about them it does start at the top accountability .

Lisa is a friend and a shop steward don't you try and make anything out of that I told Chris G she was fiery and everything was fine ,she would be saddened if she knew what you were trying to do to me .

Yes sometimes when your sick you may go to a doctor or get a scan or see a specialist or go to a chemist you may even have a family issue you need to deal with.

Chris you bought in Converge to talk to us and they suggested to us to get a hobby I have a hobby personal development if you can show me were I made any money I'd like to know I can prove I didn't it's for me

I'm saddened you feel you have to do this to me Chris

Regards Alan Swetman  
Hopefully this answer s your questions

—  
Message protected by MailGuard: e-mail anti-virus, anti-spam and content filtering.  
<http://www.mailguard.com.au>

Click here to report this message as spam:  
<https://login.mailguard.com.au/report/1HdjEtHqGu/6twDzg5cdXRuNcdaKmSrwh/4.818>



**EMB 3**

23 May 2013

Mr Alan Swetman  
7 Woongarra Street  
The Gap QLD 4061

Dear Alan

Further to my letter of 22 May 2013 I note your response at 11.55am today and have given it serious consideration. You have failed to respond to the serious matters of misconduct which I have raised with you and therefore as per our letter you are terminated effective 12 noon today. Further, the Committee of Management of the SDA resolved that you are not a person worthy of membership of the union due to your use of union property for personal gain. This resolution of the Committee of Management was subject to any satisfactory explanation you may have provided. Your response, after serious consideration, is unacceptable and therefore the resolution takes effect as of 12 noon today.

We note your claim to sick leave but your behavior and conduct during the period of absence this week is inconsistent with a person unfit for work.

- (i) On Monday our records show that you were not at home and that telephone calls were made at a place some distance from your home for a period of time.
- (ii) On Tuesday our records show you made telephone calls at a place far from your home
- (iii) On Wednesday you were conducting conversations with a number of officials.

We acknowledge receipt of your medical certificate but note that it has taken you until after the events of yesterday to obtain such certificate. The certificate does not act as a bar preventing the union from fulfilling its obligation for the observance of proper conduct and behavior. Unless advised otherwise we will deposit your statutory entitlements into your normal financial institution account.

We expect to receive without delay all union property (including membership lists, records or other documents in paper or other electronic form) in your control or possession.

We also advise that we have been reliably informed that you have copied at least some of the union membership lists or data to your personal electronic devices. You will be required to surrender such devices or alternatively to delete such electronic information from your devices.

Lastly you will be required to sign a statutory declaration to this effect verifying the bona fides of your undertakings.

Should you resist, refuse or decline to hand over all union property (including membership lists, records or other documents in paper or in other electronic form) in

your control or possession or not sign the statutory declaration to this effect as mentioned above we will take this as a reasonable belief that you have stolen property from the union and this will be placed in the hands of the police. The time for the handover of all union property (including membership lists, records or other document in paper or in other electronic form) in your control or possession is extended until 4pm today.

I personally will come to your home to collect the said material and expect that you will cooperate in this matter.

I note that you have contacted the union office at approximately 1.15pm today and advised that you will post the union phone back to the union. This is unacceptable. I also note that you hung up the phone rather than speak to me and that you have made no reference to other union property which you possess.

Yours faithfully

A handwritten signature in black ink, appearing to read 'CKetter', with a stylized flourish at the end.

Chris Ketter  
SECRETARY

**Jim Murdoch**

---

**From:** Chris Gazenbeek [Chris.Gazenbeek@sdaq.asn.au]  
**Sent:** Thursday, 6 June 2013 5:07 PM  
**To:** 'jmurdoch@qldbar.asn.au'  
**Subject:** Fw: Decision on SDAEA Secretary-Treasurer Nominations E2013/136 [DLM=For-Official-Use-Only]  
**Attachments:** img-605150113-0001.pdf; img-605150300-0001.pdf

Chris Gazenbeek  
SDA Queensland Branch  
Phone : 07 3833 9500  
Fax : 07 3833 9590  
SDA House, 385 Saint Pauls Terrace, FORTITUDE VALLEY, QLD, 4006  
PO Box 490, SPRING HILL, QLD, 4004

---

**From:** Andrew Reid [mailto:Andrew.Reid@aec.gov.au]  
**Sent:** Wednesday, June 05, 2013 03:06 PM  
**To:** Chris Gazenbeek  
**Cc:** Mark Townsend <Mark.Townsend@aec.gov.au>  
**Subject:** Decision on SDAEA Secretary-Treasurer Nominations E2013/136 [DLM=For-Official-Use-Only]

**For-Official-Use-Only**

Dear Chris,

Please be advised that I have received information regarding the SDAEA Secretary-Treasurer nominations (E2013/136) from our legal advisors in National Office.

I am advised that the decision has been made to accept the nominations of both candidates. The ballot will be taking place as per the election timetable.

I have attached to this email a letter explaining the upcoming election process and the list of accepted nominations. I have also included a letter requesting you provide a list of members from the organisation. A hardcopy of these letters will be sent to you by registered mail today.

Additionally, a letter will also be sent to the candidates explaining the election process.

NOTE: If you have any enquiries or concerns please inform me in writing so I can follow it up with the appropriate people.

Regards,

Andrew Reid

Andrew Reid

Beenleigh Area Office | QLD  
Australian Electoral Commission  
T: (07) 3089 0210 | M: 0433 663 721 | F: (07) 3089 0220



Make sure you're enrolled to vote.  
Visit [www.aec.gov.au](http://www.aec.gov.au)

**ELECTION  
2013**

For-Official-Use-Only

DISCLAIMER:

If you have received this transmission in error please notify us immediately by return email and delete all copies. If this email or any attachments have been sent to you in error, that error does not constitute waiver of any confidentiality, privilege or copyright in respect of information in the email or attachments.

---

Message protected by MailGuard: e-mail anti-virus, anti-spam and content filtering.  
<http://www.mailguard.com.au>

---

Message protected by MailGuard: e-mail anti-virus, anti-spam and content filtering.  
<http://www.mailguard.com.au>





AEC

Australian Electoral Commission

PO Box 1140  
BEENLEIGH QLD 4207

Ground Floor  
108 George St  
BEENLEIGH QLD 4207

Reference: QLD AQ3AU

Contact: Andrew Reid  
Phone: 07 3089 0200  
Facsimile: 07 3089 0220  
E-mail: andrew.reid@aec.gov.au

Mr Chris Gazenbeek  
First Assistant Secretary  
Shop, Distributive and Allied Employees  
Association  
PO Box 490  
SPRING HILL QLD 4004

Dear Mr Gazenbeek

**Shop, Distributive and Allied Employees Association  
Scheduled Election Qld Branch Secretary/Treasurer 2013  
E2013/136**

I have accepted nominations in the above election from those members whose names are included in the attachment. If an office is identified as being contested a ballot will be necessary.

The order of names on the ballot paper will be the same as the order shown on the attachment as per Qld Branch Rule 15 (f) (i). The names will be listed in alphabetical order of surname.

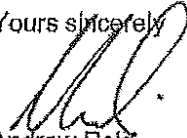
Scrutiny of ballot papers will be held in this office at 9:00am on Monday 29 July 2013. Preliminary scrutiny of declaration envelopes will commence from 9:00am on Tuesday 23 July and continue up to 12 noon on Friday 26 July.

Candidates may appoint scrutineers to represent them during the course of the election. Any such appointment must be advised to me in writing. Scrutineers should contact me if they wish to be present at any stage of the ballot including the scrutiny or preliminary scrutiny. Scrutineers must produce a letter of authority or suitable identification on their initial introduction to me or my staff. Absence of a scrutineer will not delay any step in the election.

A list of members of the organisation qualified to vote will be available to members for inspection or copying. Any member wishing to inspect or copy the list of members should make an appointment with me. All costs relating to inspection or copying are the responsibility of the member.

Ballot will open on 8 July 2013 and close at 12:00 noon on Friday, 26 July 2013.

Yours sincerely

  
Andrew Reid  
Returning Officer

5 June 2013

cc: all candidates

---

NOMINATIONS ACCEPTED LISTING

---

**SHOP, DISTRIBUTIVE AND ALLIED EMPLOYEES  
ASSOCIATION  
SCHEDULED ELECTION QLD BRANCH  
SECRETARY/TREASURER 2013  
E2013/136**

E2013/136

File Number: QLD AQ3AU

Returning Officer: Andrew Reid

---

Nominations in the above election closed at 12:00 noon on Friday, 24 May 2013. The following nominations have been accepted. Where an office is identified as contested a ballot will be necessary.

Queensland Branch

Office: Secretary / Treasurer

No. of positions: 1

No. of nominees: 2

Contested: Yes

Ketter, Christopher Ronald

Swetman, Alan George



**AEC**

Australian Electoral Commission

PO Box 1140  
BEENLEIGH QLD 4207

Ground Floor  
108 George St  
BEENLEIGH QLD 4207

Reference: QLD AQ3AU

Contact: Andrew Reid  
Phone: 07 3089 0200  
Facsimile: 07 3089 0220  
E-mail: andrew.reid@aec.gov.au

Mr Chris Gazenbeek  
First Assistant Secretary  
Shop, Distributive and Allied Employees  
Association  
PO Box 490  
SPRING HILL QLD 4004

Dear Mr Gazenbeek

**Request for copy of register of members - Shop, Distributive and Allied Employees Association - E2013/136**

As Returning Officer conducting elections for your organisation I request that you supply the following listings of details of members of the Shop, Distributive and Allied Employees Association QLD Branch by the dates which are specified.

Listings	Date Specified
(a) Name and postal address (including postcode) of every member who was financial at 21 April 2013 in accordance with the rules of the organisation	Wed 19 June 2013
(b) The names of members who were inadvertently included on or omitted from listing (a)	Wed 26 June 2013
(c) Any change of address details for members appearing on listing (a)	Wed 26 June 2013

**Electronic listings**

Lists must be provided electronically on computer disk or similar media, in Excel or ASCII comma delimited format. Lists should not be emailed as Commonwealth Guidelines provide that classified information, including personal information, should not be transmitted by email.

**Incorrect last known address**

If you have eligible members with a last known address thought to be incorrect, you should list these members separately.

**AEC**

Australian Electoral Commission

**Workplace addresses**

If you have a category of eligible members with only a workplace address, you should list these members separately.

I request that each listing be accompanied by a certificate signed by you in the following terms:

"I certify that the accompanying listing on computer disk or similar media contains the (include appropriate details, i.e. (a), (b) or (c) above). I further declare that the register of members has been maintained as required by Section 230(2) of the Fair Work (Registered Organisations) Act 2009".

I request that the listings and certificates as described above be supplied to me NO LATER THAN 12 noon on the dates specified.

**Confidentiality of Information**

Access to documents held by the Australian Electoral Commission, including data/computer files, may be requested under the Freedom of Information Act. Such requests are considered on a case by case basis. Therefore notating documents as "confidential" or "in confidence" may not necessarily prevent the documents from being released.

To comply with the *Privacy Act 1988* I would also ask that you only include in the listings personal information about members that is specifically requested in this letter.

If you have any queries or concerns regarding the above please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Andrew Reid', written over a horizontal line.

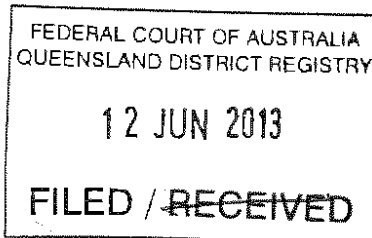
Andrew Reid  
Returning Officer

5 June 2013

**Originating application for an interim order in relation to an inquiry  
concerning an election for an office in an organisation**

No. of 20

Federal Court of Australia  
District Registry: Queensland  
Division:



QUD-316/13

**Ellen Michele Beswick**  
Applicant

**Alan Swetman**  
Respondent

To the Respondent

The Applicant applies for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

**Time and date for hearing:** Not before 10:15am **TUESDAY 18 JUN 2013**

**Place:** Harry Gibbs Commonwealth Law Courts Building at 119 North Quay, Brisbane QLD

The Court ordered that the time for serving this application be abridged to:

Date:



Signed by an officer acting with the authority  
of the District Registrar

Filed on behalf of (name & role of party) Ellen Michele Beswick  
Prepared by (name of person/lawyer) Vincent Kartelo  
Law firm (if applicable) Sciacca's Lawyers and Consultants  
Tel (07) 3867 8808 Fax (07) 3229 9482  
Email v.kartelo@sciaccas.com.au  
**Address for service** Level 4, 270 Adelaide Street, Brisbane QLD 4000  
(include state and postcode)

**Details of claim**

On the grounds stated in the statement of claim, accompanying affidavit or other document prescribed by the Rules, the Applicant claims:

1. The Applicant applies for an interim order under section 204 of the *Fair Work (Registered Organisations) Act 2009* in relation to an inquiry concerning an election for an office in an organisation or a branch of an organisation.
2. The election for an office pertains to the position of Secretary Treasurer of the Shop Distributive and Allied Employee's Association.
3. The Applicant seeks to have the Respondent's candidacy for the above election denied.

**Claim for interlocutory relief**

The Applicant also claims interlocutory relief.

1. Stay of the election of Secretary/Treasurer of the Queensland Branch of the Shop Distributive and Allied Employee's Association until the Inquiry Application is resolved.

**Applicant's address**

The Applicant's address for service is:

Place: Sciacca's Lawyers and Consultants, level 4, 270 Adelaide Street, Brisbane QLD 4000

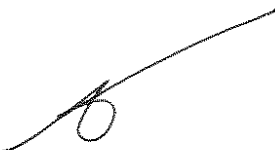
Email: [v.kartelo@sciaccas.com.au](mailto:v.kartelo@sciaccas.com.au)

The Applicant's address is Sciacca's Lawyers and Consultants, level 4, 270 Adelaide Street, Brisbane QLD 4000.

**Service on the Respondent**

It is intended to serve this application on all Respondents.

Date: 11 June 2013

  
 \_\_\_\_\_  
 Signed by Vincent Kartelo  
 Lawyer for the Applicant

No: (P)QUD316/2013

Federal Court of Australia  
District Registry: Queensland  
Division: Fair Work

**ELLEN MICHELE BESWICK**  
Applicant

**ALAN SWETMAN**  
Respondent

### **ORDER**

**JUDGE:** Justice Logan

**DATE OF ORDER:** 18 June 2013

**WHERE MADE:** Brisbane

#### **THE COURT ORDERS THAT:**

1. The acceptance by Mr Andrew Reid of the Australian Electoral Commission in his capacity as the Returning Officer of the nomination for election to the position of Secretary/Treasurer 2013 with the Queensland Branch of the Shop Distributive and Allied Employees' Association lodged by Mr Alan George Swetman is invalid.
2. An irregularity has occurred in the election for the position of Secretary/Treasurer 2013 of the Branch by the acceptance of the nomination.
3. The Returning Officer make arrangements for the uncompleted steps in the election on the basis that there is only 1 valid nomination for that office, namely the nomination of Mr Christopher Ronald Ketter.
4. The inquiry be terminated.

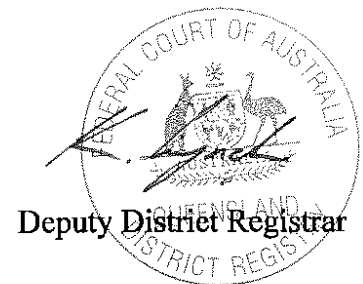


**THE COURT FURTHER DIRECTS THAT:**

5. Leave is granted for Shop Distributive and Allied Employees Association (Federal Union) to appear – so-named second respondent.
6. Leave is granted for the Australian Electoral Commission to appear – so-named third respondent.

Date that entry is stamped:

19 JUN 2013







## DECISION

*Fair Work (Registered Organisations) Act 2009*  
s.189—Arrangement for conduct of an election

### **Shop, Distributive and Allied Employees Association** (E2013/136)

AILSA CARRUTHERS

MELBOURNE, 12 APRIL 2013

*Arrangement for conduct of election.*

[1] On 13 March and 9 April 2013 the Shop, Distributive and Allied Employees Association - Queensland Branch lodged with the Fair Work Commission the prescribed information in relation to an election for the following office:

Branch Secretary-Treasurer

[2] The prescribed information was not lodged before the day prescribed by Regulation 138(3) of the *Fair Work (Registered Organisations) Regulations 2009*. That day is the day occurring 2 months before the first day when a person may, under the rules of the organisation or branch, become a candidate in the election. The Branch Secretary-Treasurer has stated that this was due to an administrative oversight and has requested that I allow a later day for the lodgement of the prescribed information under subsection 189(2) of the *Fair Work (Registered Organisations) Act 2009* (the Act). Having considered the reason for late lodgement, I allow lodgement on 13 March 2013 in this instance.

[3] I am satisfied that an election for the abovenamed office is required to be held under the rules of the organisation and, under subsection 189(3) of the *Fair Work (Registered Organisations) Act 2009*, I am making arrangements for the conduct of the election by the Australian Electoral Commission.



DELEGATE OF THE GENERAL MANAGER  
FAIR WORK COMMISSION

Printed by authority of the Commonwealth Government Printer

<Price code A, PR535187>



9 April 2013

The General Manager  
Fair Work Commission  
GPO Box 1994  
MELBOURNE VIC. 3001

Dear Sir/Madam,

**Re: S.D.A. (Queensland Branch) Election  
Secretary - Treasurer**

Further to my letter of 7 March 2013 please find enclosed the statement required by the Fair Work (Registered Organisations) Act 2009 in respect of an election to be conducted for the Shop Distributive & Allied Employees Association (Queensland Branch) in 2013.

I request an extension of time to lodge the prescribed information in light of the fact that due to an administrative oversight, this information was not provided in accordance with the requirements of the legislation.

I trust this meets your requirements.

Yours faithfully

A handwritten signature in black ink, appearing to read 'CKetter', is written over a large, faint circular watermark or stamp.

Chris Ketter  
SECRETARY-TREASURER

## STATEMENT BY BRANCH SECRETARY- TREASURER

### AMENDED:

1. I, Christopher Ronald Ketter, am the Branch Secretary of the Shop, Distributive and Allied Employees Association (Queensland Branch).
2. In accordance with sub-rule (b) of Rule 15 ELECTION OF OFFICERS and elections for certain positions within the Branch are due to be held this year.
3. In accordance with section 189(1), I supply the following information:-
  - (a) Name of the offices for which an election is required:-
    - Secretary - Treasurer
  - (b) Reason for election:-

The term of office will expire in accordance with the Rules.
  - (c) Where more than one Office Holder:-
    - Not Applicable
  - (d) Office and Electorate:-

OFFICE	ELECTORATE
Secretary – Treasurer	All branch members

- (e) In respect of the election to be conducted under sub-rule (b) of Rule 15 ELECTION OF OFFICERS and nominations shall open not earlier than the first Monday of May and close not later than 12.00 noon on the fourth Friday of May.
- (f) The voting system is by postal ballot of members.
- (g) Rule 15(e) provides that should a ballot be necessary “those members of the Branch financial as at the 21<sup>st</sup> day of April last preceding the date when nominations open” shall participate.

DATED: This 9<sup>th</sup> day of April 2013.



Chris Ketter  
SECRETARY-TREASURER



7 March 2013

The General Manager  
Fair Work Commission  
GPO Box 1994  
MELBOURNE VIC. 3001



Dear Sir/Madam,

**Re: S.D.A. (Queensland Branch) Election  
Secretary - Treasurer**

Please find enclosed the statement required by the Fair Work (Registered Organisations) Act 2009 in respect of an election to be conducted for the Shop Distributive & Allied Employees Association (Queensland Branch) in 2013.

In accordance with a resolution of the meeting of the State Council of the SDA (Queensland Branch) on 5<sup>th</sup> March 2013, I hereby request that the election be conducted by the Australian Electoral Commission.

I trust this meets your requirements.

Yours faithfully

A handwritten signature in black ink, appearing to read 'CKetter', is located below the 'Yours faithfully' text.

Chris Ketter  
SECRETARY-TREASURER

### STATEMENT BY BRANCH SECRETARY- TREASURER

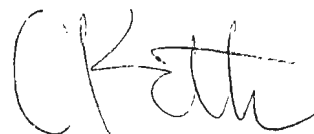
1. I, Christopher Ronald Ketter, am the Branch Secretary of the Shop, Distributive and Allied Employees Association (Queensland Branch).
2. In accordance with sub-rule (b) of Rule 15 ELECTION OF OFFICERS and elections for certain positions within the Branch are due to be held this year.
3. In accordance with section 189(1), I supply the following information:-
  - (a) Name of the offices for which an election is required:-
    - Secretary - Treasurer
  - (b) Reason for election:-

The term of office will expire in accordance with the Rules.
  - (c) Where more than one Office Holder:-
    - Not Applicable
  - (d) Office and Electorate:-

OFFICE	ELECTORATE
Secretary – Treasurer	Whole Electorate

- (e) In respect of the election to be conducted under sub-rule (b) of Rule 15 ELECTION OF OFFICERS and nominations shall open not earlier than the first Monday of May and close not later than 12.00 noon on the fourth Friday of May.
- (f) The voting system is by postal ballot of members.

DATED: This 7<sup>th</sup> day of March 2013.



Chris Ketter  
SECRETARY-TREASURER