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Dr Richard Grant
Secretary to the Secretariat
Senate Economics Legislation Committee
Parliament House
Canberra

28 October 2011

Dear Dr Richard Grant

In light of the evidence I believe Second Commissioner Jennie Granger gave to the Senate Estimates Committee on 20 October 2011, I wish to advise you that an important aspect of that evidence appears to be incorrect and requires immediate investigation and correction.

Specifically, it relates to the answer Ms Granger gave in response to a question from Senator Cormann, which is reproduced from the Senate record below:

Senator CORMANN: Have you now reached agreement, when you say you have concluded?

Ms Granger: We have the support of one union. We have two unions in the tax office. The ASU is supporting the current proposal. The proposal has to go through a process of the Public Service Commission looking at it before we can formally put the proposal, just to make sure it conforms with all the appropriate processes. The CPSU is polling its members between now and Tuesday to see whether or not it will support the agreement.

(Reference – Page 117 Hansard Proof 20 October 2011)

It should be noted that at no time has the ASU Tax Branch Council formally supported the ATO's current agency bargaining proposal. Therefore Ms Granger evidence before the committee is incorrect and misleading.

The basis of the Union's claim is that the ASU Tax Secretary, Jeff Lapidos, decided to unilaterally support the Commissioner and the pay offer without gaining approval or endorsement from the Tax Branch Council. I believe Mr Lapidos also gave a personal assurance to the ATO negotiators to 'sell' the pay offer to ASU members, again without an expressed authority to do so from the Union.

As background information the ASU Tax Branch Council had been meeting weekly to discuss the progress of negotiations. In recent weeks, it became clear in these discussions

that there was no consensus to support the pay offer and, indeed, a clear majority had indicated that they could not support the pay offer.

Last Tuesday, 18 October, after Mr Lavidos publicly announced his personal support for the pay offer, I as the Assistant Secretary, supported by a number of concerned regional councillors, called upon the President to immediately convene an urgent meeting of the ASU Tax Council. The purpose of that meeting would have been to consider the pay offer, debate its merits (or otherwise) and to vote. I believe it is important for the membership and the ATO to be properly advised where the Tax Council stands.

That resolution also called for Mr Lavidos to be restrained from taking any further action, under Rule 10c, until the Tax Council had met and decided upon a collective position.

Mr Lavidos has therefore decided to bypass the ASU Tax Branch Council, which under the Rules of the ASU has ultimate decision-making authority in agency bargaining negotiations.

You should be aware that the ASU Tax Branch Council has not been afforded the right to deliberate on the pay offer and to express its collective will. I believe that it has been prevented from doing so in a manner that may be unlawful.

Further, you should be aware that Mr Lavidos does not speak on behalf of the democratically-elected members of the ASU Tax Branch Council.

Therefore on the grounds mentioned above I consider that the evidence Ms Granger gave to the Estimates Committee is a misrepresentation of the ASU Tax Branch.

Given that many ATO staff members have now become aware of Ms Granger's senate committee statements and the coverage in newspaper reports I have sought an immediate withdrawal or clarification from Ms Granger and the ATO in an all staff communication. Please note that I have endeavoured to make contact with Ms Granger on numerous occasions and I as yet have not received an adequate response. I have also suggested to Ms Granger that she has a responsibility and duty to withdraw or clarify her statements with the senate estimate committee members.

In conclusion, may I request that you investigate this matter further and ensure that this important issue is looked into as a matter of urgency and then brought to the attention of all Estimates Committee Members for their attention and consideration.

Yours sincerely

Gaetano Greco
Assistant Secretary
ASU Tax Branch Council