

FAIR WORK AUSTRALIA

Interim Report of the Delegate to the Acting General Manager of Fair Work Australia into the National Office of the Health Services Union under section 331 of the Fair Work (Registered Organisations) Act 2009.

Terry Nassios

16 January 2012

Brief Background

I have been delegated by you and your predecessor the power conferred by sections 331 and 335 and subsection 336(1) of the *Fair Work (Registered Organisations) Act 2009* (**the RO Act**).

Pursuant to section 331 of that Act, on 26 March 2010, I commenced an investigation into whether the provisions of:

- (i) Part 3 of Chapter 8 of Schedule 1 to the Workplace Relations Act 1996;
- (ii) the Reporting Guidelines made by the then Industrial Registrar on 12 October 2004 under Part 3 of Chapter 8 of Schedule 1 to the Workplace Relations Act 1996;
- (iii) the Rules of the Health Services Union (**HSU**) relating to its finances or financial administration; or
- (iv) section 237 and sections 285-287 of Schedule 1 to the Workplace Relations Act 1996

have been contravened by the National Office of the HSU (**National Office**), and/or by officials or employees of the National Office in relation to transactions occurring between 16 August 2002 and 1 March 2008 and record keeping, reporting and auditing issues arising from transactions during this period. In particular I am examining whether:

- officers of the National Office exercised their powers and discharged their duties with reasonable care and diligence, in good faith for the best interests of the organisation and for a proper purpose during this period;
- officers or employees of the National Office have improperly used their position to gain an advantage for themselves or someone else, or to cause detriment to the organisation during this period;
- transactions of the National Office made during this period were properly authorised;
- proper financial records were kept of such transactions by the National Office;
- proper financial, expenditure, donation and audit reports were approved by the National Office and filed with the Australian Industrial Registry or FWA (as appropriate) in respect of the 2002/03 to 2008/09 financial years.

I am also investigating whether the Auditor of the National Office has complied with his obligations under sections 256 and 257 of Part 3 of Chapter 8 of Schedule 1 to the Workplace Relations Act 1996 in relation to the audit reports in respect of the 2002/03 financial year through to the 2006/07 financial year.

For the sake of completeness, an inquiry pursuant to section 330 of the Workplace Relations (Registration and Accountability of Organisations) Schedule into the above matters commenced on 6 April 2009.

Brief particulars of the issues being investigated involve:

- Authorisation of specific expenditures under HSU Rules that appear to relate to Mr Thomson's campaign for the seat of Dobell in 2007 such as:
 - Contributions to the Yours Rights at Work campaign;

- The community group 'Coastal Voice';
 - Cost of running Mr Thomson's campaign office in Long Jetty;
 - Employment by HSU of campaign staff in Long Jetty;
 - Expenditures with Central Coast Radio (political advertising), various printing companies, Australia Post and Falcon Long Jetty;
 - Sponsorship of Central Coast Rugby League totalling over \$100,000 in 3 years;
 - Sponsorship or donations to Dads in Education and Central Coast Convoy for Kids;
 - Costs associated with running a bus during the campaign that was donated by Mr Daniel Parish;
- Authorisation of other expenditures under HSU Rules, including:
 - The cost of travel and accommodation for Mr Thomson's wife;
 - Expenditure on HSU credit cards after the Mr Thomson's resignation;
 - Payment of car registration and insurances for National Office employees for the following 12 months immediately prior to Mr Thomson's resignation
 - Withdrawal by Mr Thomson of over \$100,00 in cash from ATMs while he was National Secretary;
 - Charges made by brothels and escort agencies to Mr Thomson's HSU credit cards;
 - The taking of leave by Mr Thomson during his time as National Secretary, including in the 6 weeks prior to the November 2007 election;
 - Failure to lodge financial returns as required by the RO Act/RAO Schedule
 - Failure to lodge statements of loans, grants and donations as required by the RO Act/RAO Schedule
 - The keeping of records as required by RO Act;
 - The keeping of records and minutes as required by HSU Rules;
 - The financial position of the HSU between 2002 and 2007.

During the course of the Inquiry and Investigation, thirteen persons have been interviewed with two persons having been interviewed twice.

The persons interviewed and date of interviews are as follows:

Iaan Dick

Auditor

24 July 2009

Kathy Jackson	National Secretary	8 September 2009
Iris Knight	Member, Finance Committee National Trustee	1 March 2010
Dr Rosemary Kelly	Member, National Executive Member, Finance Committee Secretary, Vic No.4 Branch	15 April 2010
Belinda Ord	Financial Controller (Feb 2005 - March 2008)	4 May 2010
Christopher Brown	Member, National Executive Secretary, Tasmania No.1 Bch	12 May 2010
Criselee Stevens	HSU Employee who worked on central coast of NSW, including in campaign office	18 May 2010
Matthew Burke	HSU Employee who worked on central coast of NSW, including in campaign office	18 May 2010
Nurten Ungun	Financial controller (resigned October 2004)	22 June 2010
Karene Walton	Training and Campaign Co-ordinator	22 July 2010
Michael Williamson	National President	26 July 2010
Craig Thomson	Former National Secretary	15 September 2010
Belinda Ord (2nd interview)	Financial Controller (Feb 2005 - March 2008)	18 February 2011
Kathy Jackson (2nd interview)	National Secretary	11 April 2011
Mark MacLeay	National Industrial Officer	20 May 2011

In addition, a number of Notices under subsection 335(2) of the Fair Work (Registered Organisations) Act 2009 have been issued to produce documents.

This investigation is now at an advanced stage and I have reached a preliminary view that it is open to me to make adverse findings in respect of various conduct against five persons (one of which is the National Office itself). I have provided an opportunity to those persons who I propose to make adverse findings against to address me prior to me making any final decisions. I will take into account any relevant considerations placed before me. The date

for the receipt of any such considerations ranges from 20 January 2012 to 5 March 2012 (following an extension of time granted to one of the five persons).

The amount of information provided to each of the five persons is extensive.

Given the extensive amount of material, I provide this interim report for your information only so as to enable you to start to familiarise yourself with the range of material which is likely to be provided to you in a final report. It is not given to you for the purpose of enabling you to provide input or direction into the investigation. Insofar as the interim report attaches material which discloses to you the findings I propose to make, those findings are necessarily preliminary findings only, and will be reviewed, and possibly changed, in light of any response made by the recipients of the letters of proposed findings.

In the meantime (and acknowledging that the time for responding to my invitations to the persons to whom I have given notice of possible adverse findings has not yet expired), I have also sought further legal assistance to review the material contained in the interim report and provide advice to me as to whether there may be any potential difficulties in sustaining the proposed adverse findings with a particular focus on whether the proposed adverse findings are properly based.

Accompanying this Interim report, I provide you with copies of correspondence to Mr Thomson, Mr Dick, Mr Williamson, Ms Jackson and the National Office together with the material attached to that correspondence.