



Australian Government

Registered Organisations Commission

# Federal Court imposes civil penalties on ANMF and its WA Branch Secretary

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**14 December 2018**

Today the Federal Court made declarations and handed down civil penalties against the Australian Nursing and Midwifery Federation (**ANMF**) and the Secretary of its Western Australian Branch (**WA Branch**), Mr Mark Olson.

Justice Barker ordered the payment of an agreed penalty totalling \$29,250 by the ANMF, relating to contraventions by the WA Branch in failing to lodge financial returns over three consecutive years (ending 30 June 2010, 2011 and 2012) within the statutory time frames, in contravention of sections 253, 265(5) and 266 of the Fair Work (Registered Organisations) Act 2009 (**the RO Act**).

Justice Barker found, at paragraph 38 of the judgement, that “the effect of the conduct was that, for an extended period of time, information about the financial position of the WA Branch was withheld from members of the ANMF and other persons.”

In imposing the penalty on the ANMF, Justice Barker commented at paragraph 49 that:

"The Commissioner submits and the ANMF agrees, as do I, that the ANMF has fully cooperated with the Commissioner since the commencement of this proceeding. It made full admissions as to liability at the earliest opportunity....The penalties proposed against the ANMF should properly reflect

this consideration".

The ROC welcomes the genuine cooperation, contrition and steps taken by the National Office of the ANMF to improve governance and oversight of the financial obligations by its branches. At the same time and in relation to the total of the penalties, at paragraph 76, Justice Barker noted that it:

“is not an insignificant sum and should have an appropriate specific deterrent quality and also send a message more generally to persons in like positions to the ANMF, by way of general deterrence, that there is a price to be paid for allowing contravention of the RO Act reporting requirements”.

His Honour declared that Mr Olson, by his failure to ensure the timely preparation, circulation and lodgment of financial reports between July 2010 and July 2013, failed to exercise his powers and discharge his duties with the degree of care and diligence that a reasonable person would exercise.

At paragraph 93 Justice Barker commented that:

“The Commissioner accurately notes that in contrast to the ANMF... the substantive allegations against Mr Olson were wholly contested at trial” and, at paragraph 126:

“Additionally, a strong message must be sent to others in his position who might be inclined to treat lightly, as Mr Olson did, the reporting obligations imposed by the RO Act”.

Justice Barker ordered Mr Olson to pay a penalty of \$6,630 which represents about 65% of the maximum \$10,200 after taking into account differing penalty rates in different periods.

The Registered Organisations Commissioner has welcomed the decision because it continues to highlight the high standards of accountability of registered organisations and its office-bearers to provide timely and accurate disclosure of financial information to members.

The judgement can be viewed [here](#)

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