



Australian Government

Registered Organisations Commission

Federal Court sets penalty hearing date for AWU

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The Federal Court has set a date for the penalty hearing against the Australian Workers' Union (AWU) brought about by the Registered Organisations Commissioner, alleging multiple contraventions of the *Fair Work (Registered Organisations) Act 2009* (RO Act).

The date is set for Thursday 12 December 2019 in the Federal Court in Melbourne.

The allegations relate to the AWU's failure to keep an accurate register of members during the period from 2008 to 2013.

The Commissioner and the AWU reached a formal agreement in August under which the AWU admitted contraventions of the RO Act alleged by the Commissioner relating to the addition of some 851 non-members to its Register, and the failure to remove more than 1000 unfinancial members from the Register.

In this phase of the proceedings, the Commissioner is seeking the making of findings and declarations against the AWU and the imposition of civil penalties on the AWU.

A separate penalty hearing involving the former Victorian Branch Secretary of the AWU, Mr Cesar Melhem, is scheduled to take place on Tuesday 24 September 2019.

Background

As part of its final report, the Trade Union Royal Commission (**TURC**) made a

number of referrals to the General Manager of the Fair Work Commission (**FWC**) relating to potentially serious contraventions of the RO Act by the AWU and its former Victorian Branch Secretary Mr Cesar Melhem (**the AWU referrals**).

The AWU referrals were based on a series of case studies involving a scheme of conduct in which large sums of money were paid by employers to the Victorian Branch of the AWU between 2007 and 2013. The TURC found that in exchange for cash payments, the Victorian Branch of the AWU agreed not to seek better terms and conditions for certain of its members and that the arrangements involved both the false inflation of membership numbers and the falsification of documents. The TURC found, amongst other things, that the AWU registered workers as members who did not know they had been registered.

The TURC also found that while it would not otherwise have been difficult for the AWU to obtain better terms and conditions for the workers, all involved in the arrangements benefited except the workers that the AWU was supposed to be representing.

On 2 November 2016, the FWC commenced an independent investigation in relation to the AWU referrals. The referral was the subject of an independent investigation by the Registered Organisations Commission upon its establishment on 1 May 2017 which resulted in the commencement of these proceedings.

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