

IN THE INDUSTRIAL RELATIONS COURT OF AUSTRALIA

BRISBANE REGISTRY

QI 95/1274

of 1995

WILLIAM LUDWIG

Applicant

and

STEPHEN HARRISON,  
CHRISTOPHER HAYES, ROBERT  
DAVIES, MARK WHEELER, VERN  
FALCONER, BARRY COCHRAN,  
ARTHUR HARPER, TIM FROST,  
PAUL CURRIE, IAN CAMBRIDGE,  
FRANK CHAMBERS, GARY RYAN,  
TED BRISCHKE, BILL PATON,  
BARRY MEIKLEJOHN, KEITH  
BALLIN, MOURI RUDD, ROSS  
COLLISON, GENE LIVERMORE,  
MICHAEL O'SHEA, STAN  
WALTERS, W. MURRAY, GRAHAM  
ROBERTS, ROBERT SMITH, SAM  
MUSCAT, BRUCE WILSON, MARK  
BARNES, JOHN GLISSON, PETER  
TREBILCO, STEPHEN BOOTH,  
ROBERT SNEATH, M. HINDLE,  
HARRY SUGARS, GEOFF  
BUCKLAND, TIM DALY, I.  
COLE, N. MCBRIDE

Respondents

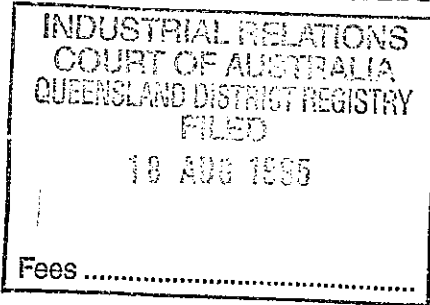
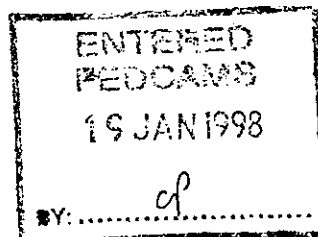
AFFIDAVIT

On this 18th day of August, 1995, I WILLIAM LUDWIG of 333  
Adelaide Street, Brisbane in the State of Queensland, being  
duly sworn, make oath and say as follows:

1. I am the Applicant herein.
2. I am a member and the National President of the AWU-FIME

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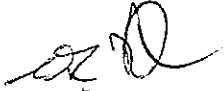
Amalgamated Union (hereinafter "the Organization"), which is an organization of employees registered pursuant to the provisions of the Industrial Relations Act 1988 ("the Act'). I am also Secretary of the Queensland Branch of the organization.

3. The Respondents are all members of the National Executive of the organization and are all under a duty to perform and observe the rules of the organization.
4. AWU-FIME results from an amalgamation between The Australian Workers' Union and the Federation of Industrial Manufacturing and Engineering Employees, which amalgamation was completed on or about 1 November, 1993.
5. Attached hereto and marked "WL1" is a true copy of the AWU-FIME rules certified as at the 11 day of August 1995.
6. On 6 March, 1995, the Australian Electoral Commission conducted elections for office holders in the National Construction Branch which had been established by virtue of the certification of rules' changes on 17 February, 1995. Amongst other persons elected, Mr. Bruce Wilson was declared elected as the Secretary for the National Construction Branch. Attached hereto and marked "WL2" is a copy of a letter from the Australian Electoral Commission dated 6 March, 1995 declaring uncontested positions in that ballot.

positions in that ballot.

7. Shortly prior to Wednesday, 2 August, 1995, I received information from Mr. Ian Cambridge, the Joint National Secretary of the Organization that he had called a meeting of the Finance Committee of the organization for Wednesday, 2 August, 1995, to discuss what he considered to be serious irregularities with respect to the administration of the National Construction Branch.
8. On Wednesday, 2 August, 1995, I attended a meeting of the Finance Committee of the organization. the Finance Committee is made up of both Joint National Secretaries and the Secretaries of each Branch of the organization together with Mr. Laurie Hutchison who is a non-elected adviser to the organization. Attached hereto and marked with the letter "WL3" is a copy of the minutes of the Finance Committee meeting held on 2 August, 1995.
9. At the meeting of the Finance Committee on Wednesday, 2 August, 1995, I <sup>was made aware of</sup> ~~read~~ documentation which indicated that accounts in the name of the former Australian Workers' Union (Victorian Branch) had been operated by officers of the National Construction Branch in respect of the period after 17 February, 1995.
10. The said bank statements which I ~~read~~ <sup>was made aware of</sup> indicated that moneys received on behalf of the organization had been

deposited into an account styled "The AWU Victoria Branch - Members Welfare Fund", which Fund contained moneys which members of the Finance Committee were advised by Mr. Bruce Wilson, contained private funds.

11. The bank statements which  I read showed that the balance in the account called "The Australian Workers Victoria Branch Account" and which prior to 17 February, 1995 had been the operating account of the Australian Workers' Union, Victoria Branch, had diminished in the period from 17 February, 1995 by approximately \$48,500.00.
12. As the Victorian Branch of the Australian Workers' Union was effectively dissolved on 17 February, 1995, there has been no Committee of Management in place to authorise the withdrawal of funds from accounts previously held in the name of the Victorian Branch of the Australian Workers' Union. Despite that fact, the information I received on 2 August, 1995 indicated that certain transactions both inward and outward had taken place in respect of a number of accounts held in the name of the AWU Victorian Branch.
13. At the meeting of the Finance Committee on 16 August, 1995, I heard Mr. Robert Smith, the Secretary of the Victorian Branch, read from a letter which he said was a letter of advice from his lawyers and which passage contained words to the effect, "We believe that the matters concerning the administration of the National

Construction Branch should appropriately be the subject of criminal charges".

Mr. Smith then said to Mr. Wilson, "I reckon you'll go to the slammer!"

14. That meeting resolved that a meeting of the auditors of the National Construction Branch and the Victorian Branch should take place as soon as possible to examine the matters raised at that meeting.
15. I have been provided with a copy of a letter dated 4 August, 1995 sent by Mr. Smith to Mr. Cambridge wherein he indicated the intention of charging Mr. Wilson pursuant to the rules of the union. A copy of that letter is attached hereto and marked with the letter "WL4".
16. I have been advised by Mr. Cambridge and verily believe that on Thursday, 10 August, 1995, Mr. Cambridge obtained advice from Mr. Richard Kenzie, Q.C. with respect to appropriate steps to be taken in respect of invalidities and/or irregularities which appear to have occurred with respect to the administration of accounts by Mr. Wilson and possibly other officers of the National Construction Branch of the Organization. Attached hereto and marked with the letter "WL5" is a copy of a letter from Turner Freeman, Solicitors, provided to Mr. Cambridge dated 14 August, 1995 and which was distributed to members of the

National Executive on 15 August, 1995.

17. From information in my possession, it is my belief that the facts set out in that said letter dated 14 August, 1995 are true and correct.
18. At approximately 4.30 p.m. on Friday, 11 August, 1995, I received a telephone call from Mr. Ian Cambridge wherein Mr. Cambridge said words to the effect:

"I have just received a call from Steve Harrison who has told me that Smith and Wilson have been meeting and have worked out a deal. Wilson and other officers of the National Construction Branch intend to resign and Harrison has asked me to authorise a redundancy payment to them. I have refused to do it."
19. I understood the reference to "Smith" to be a reference to "Mr. Robert Smith", the Secretary of the Victorian Branch and I understood the reference to "Wilson" to be a reference to "Mr. Bruce Wilson". I understood the reference to "Steve Harrison" to be a reference to "Mr. Stephen Harrison", the other Joint National Secretary of the organization.
20. From my experience in the organization, I know that Mr. Robert Smith and Mr. Bruce Wilson have been intense political opponents in the organization as have Mr. Wilson and Mr. Harrison.
21. I agreed with Mr. Cambridge that it was quite inappropriate for a redundancy payment to be paid to Mr.

Wilson or any other official of the National Construction Branch.

22. At approximately 10.30 a.m. Monday, 14 August, 1995, I received a facsimile transmission from Mr. Stephen Harrison, a copy of which is attached hereto and marked with the letter "WL6".
23. Shortly prior to 12.00 noon on that day, I forwarded a letter to Mr. Harrison by way of facsimile transmission, a copy of which is attached hereto and marked with the letter "WL7".
24. During the course of the afternoon on 14 August, 1995, I received a further facsimile transmission from Mr. Harrison, a copy of which is attached hereto and marked with the letter "WL8"
25. On my arrival at work on Tuesday, 15 August, 1995, I received a copy of a circular by way of facsimile transmission from Mr. Ian Cambridge, Joint National Secretary of the organization, attaching the advice from Messrs. Turner Freeman, Solicitors dated 14 August, 1995, a copy of which is attached hereto and marked with the letter "WL9".
26. Shortly after receiving the correspondence which is annexure "WL9" hereto, I sent a circular letter to all

attachement to annexure to "WL10" was the document which is annexure "WL7" to this affidavit.

27. During the course of the afternoon of 15 August, 1995, I received a further facsimile transmission from Mr. Stephen Harrison, a copy of which is attached hereto and marked with the letter "WL11".
28. Upon my arrival at work on Wednesday, 16 August, 1995, I received a facsimile transmission from Mr. Ian Cambridge, a copy of which is attached hereto and marked with the letter "WL12".
29. On Thursday, 17 August, 1995, I received advice from Mr. Cambridge that he had been informed by staff employed by the National Organization that Mr. Stephen Harrison had given a direction to the State Bank of New South Wales for moneys to be transferred by way of electronic funds transfer to accounts in the names of officers and staff of the National Construction Branch.
30. During the course of the day on 17 August, 1995, I received a copy of a letter from Mr. Cambridge to Mr. Andrew Corbett, Account Manager of the State Bank of New South Wales, a copy of which letter is attached hereto and marked with the letter "WL13".
31. As at the date of swearing this affidavit, no decision



has been made by the National Executive or Convention to downsize and/or abolish the National Branch. It is my belief that if the officers and staff of the National Construction Branch were to resign in order to receive the said redundancy payments, there will be created casual vacancies in each case both in staff positions and elected positions in the Branch Executive and Branch Representatives or the National Executive, which casual vacancies will be required to be filled in accordance with the rules.

32. As at the date of swearing this affidavit no steps have been taken to identify those members of the organization who are members of the National Construction Branch or to identify the voting strengths of representatives of the National Construction Branch or National Executive or convention as required by sub-rule 73B(3)(i) which was certified by the Industrial Registrar on 28 April, 1995.
33. I believe that Mr. Wilson and Mr. Busby participated in the postal ballots of the National Executive held during the week of 14 August, 1995 despite the fact they stood to obtain a significant pecuniary advantage from the motion to authorize redundancy payments to them.
34. It is my belief that the redundancy payments have been offered to Mr. Wilson and other officers of the National Construction Branch with a view to removing from office

persons who are political opponents to Mr. Robert Smith and Mr. Stephen Harrison. It is my belief that the redundancy payments are not in respect of any redundancy at all, as the position occupied by the persons who have nominated for such redundancies continue to exist and will be required to be filled.

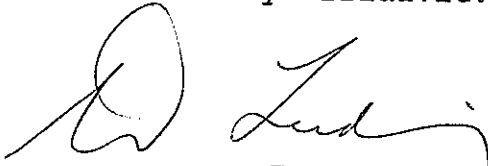

35. It is my further belief that Mr. Wilson and other offices of the National Construction Branch have been induced to accept redundancy as a result of the threat made by Mr. Smith to charge Mr. Wilson pursuant to the disciplinary provisions of the rules of the organization and the threat of referring matters relating to administration of the funds of the organization by officers of the National Construction Branch to the Victorian Police.
36. I have received legal advice that there will be significant legal difficulties in recovering any of the organization's funds once a redundancy payment is made to officers and staff of the National Construction Branch.
37. I believe that unless the Court grants the urgent interlocutory relief sought herein, then funds of the organization totalling approximately \$150,000.00 will be wrongfully paid out by way of alleged redundancy

payments and will be unable to be recovered.

All the facts and circumstances herein deposed to are within my own knowledge save as such are deposed to from information only and my means of knowledge and sources of information appear on the face of this my Affidavit.

SWORN by the Deponent  
at Brisbane this 18th  
day of August 1995 )

Before me:

  
  
A Justice of the Peace.