

COMMISSIONER: I'll take an appearance.

MS J. THOMAS: JENNY THOMAS, for the Tasmanian Chamber of Commerce and Industry.

COMMISSIONER: Thanks, Ms Thomas.

5 MS THOMAS: If it pleases, Mr Commissioner, I'd like to commence with an amendment to my application. The reference to clause 18(e) should in fact read 19(e).

COMMISSIONER: Right. There being no objection, I grant the amendment sought.

10 MS THOMAS: Thank you. My amended application seeks to vary the Public Accountants Award to allow PBS Administrators Pty Ltd trading as PBS Partners to make superannuation contributions on behalf of their employees into the Spectrum Retirement Plan, The Spectrum Superannuation Fund.

15 Before proceeding, I'd like to hand up an exhibit which is comprised of a number of documents.

COMMISSIONER: **EXHIBIT T.1.**

MS THOMAS: This application obviously is made in the context of the requirements of section 32(1B) of the Act where the commission
20 needs to be satisfied that the fund is one that meets the wishes of employees and in an approved or complying fund.

The first document before you is a statutory declaration completed by Stephen Allan Hernick who is director of partner of PBS Administrators Pty Ltd. This statutory declaration details the 31
25 employees who are employed pursuant to the provisions of the Public Accountants Award and that has been witnessed by David John Vautin, a commissioner of declarations.

The next piece of paper in that exhibit is the standard employee acceptance form that the commission would be familiar with. It states
30 that each employee has been presented with a summary of key information on each fund including return on investment, administration charges, death and disability coverage, and roll-over provisions and goes on to say, that the employees' decision has been made without duress and based on informed consent.

35 Now, I noted this morning that the employer did not go so far as to provide information on the three funds nominated in the Public Accountants Award. They have provided employees with information relating to Tasplan and the Accountants Superannuation Fund but not on Care but I don't know whether the *Industrial Relations Act* really
40 requires that that be done. I think the employer has done what would be considered as reasonable in the circumstances.

They have at least probably provided them with information going to the two main industry funds within this industry.

5 You will note that each of the employer's 31 employees have all indicated that they wish their contributions to be made into the Spectrum Plan and you'll note that their names, addresses and signatures appear under the Spectrum Plan. No employee has indicated they wish their contributions to be made to Tasplan or the Accountants Superannuation Fund.

10 The next document in the exhibit are the summaries that were provided to employees. Firstly, on the Spectrum Plan, Tasplan and the Accountants Superannuation Fund. As I said earlier, each of those summaries sets out information relating to various charges, details on rolling over, death and disability, and the performance of the fund's - it looks like over the last five years but with the Accountant
15 Superannuation Fund, just over the last couple of years.

The final document is a copy of the ISC letter addressed to the trustees of the Spectrum Retirement Plan, The Spectrum Superannuation Fund, which indicates that - it's an acknowledgment that the fund has elected to become a regulated superannuation fund which indicates
20 that the fund is a complying fund of the purposes of the legislation.

In relation to the application, I did correspond with Mr Paterson on 12 May, indicating my intention to vary the award in the manner sought and Mr Paterson has responded by letter dated 11 June, and I think you have that letter there, indicating that provided the employees were
25 provided with all information, that their decision was free of duress and that the fund is a complying fund, then he would have no objection to the application.

In my submission, Mr Commissioner, the documents before you demonstrate and should satisfy you that the requirements of section
30 32(1B) have been satisfied and I would ask that the award be varied in the manner sought, operative from the first full pay period to commence on or after today's date. If it pleases the commission.

COMMISSIONER: Yes, thanks, Ms Thomas. I indicate now that I'm satisfied as to the canvassing of the two main funds with the
35 employees. I accept your submission on that matter and I also indicate that your explanation is more than satisfactory as far as I'm concerned and the application will be granted, operative from the first full pay period commencing on or after today's date. Thank you.

This matter is closed.

40 **HEARING CONCLUDED**