



KordaMentha
forensic

Returned & Services League of Australia Limited

Forensic review – summary of interim findings

12 December 2016

Relevant people

Person	Name and position(s)
Mr Brisot	Ivan Brisot, Branch Finance Officer RSL NSW (ret. December 2014), Property Facilities Supervisor RSL NSW (present)
Mr Cannings	John Cannings OAM, Senior Honorary Legal Adviser PwC (present)
Ms Collins	Robyn Collins, General Manager DefenceCare (present)
Mr Crosthwaite	Robert Crosthwaite – State Vice President - Northern Country RSL NSW (ret. May 2014), State Councillor RSL NSW (present), Director RSL LifeCare (present)
Mr Haines	John Haines – State Vice President – Metropolitan RSL NSW (ret. September 2016), State President RSL NSW (present), Director RSL LifeCare (present), FARM Committee (present)
Mr Hardman	William Hardman – State Councillor RSL NSW (present), State Honorary Treasurer (present), Director RSL LifeCare (ret. October 2011)
Mr Harrigan	Bill Harrigan – State Councillor RSL NSW (ret. July 2015), State Honorary Treasurer RSL NSW (ret. July 2015), Director RSL LifeCare (ret. October 2005), Acting State Treasurer RSL NSW (present)
Mr Humphreys	Bill Humphreys OAM – State Councillor RSL NSW (present), Director RSL LifeCare (present), FARM Committee (ret. November 2016)
Mr Kolomeitz	Glenn Kolomeitz – Chief Executive Officer RSL NSW (present), FARM Committee (present), WBI Trustee (present)
Mr McManus-Smith	Darren McManus-Smith OAM – State Councillor RSL NSW (present)
Miss Mulliner	Annette Mulliner – Chief Financial Officer RSL NSW (ret. September 2016), FARM Committee (ret. June 2016), Director RSL LifeCare (ret. October 2016)
Mr Perrin	Chris Perrin – Chief Executive Officer and State Secretary RSL NSW (ret. May 2015), WBI Trustee (ret. May 2015), FARM Committee (ret. May 2015)
Mr Rowe	Don Rowe OAM – State President RSL NSW (ret. November 2014), WBI Trustee (ret. November 2014), FARM Committee (ret. November 2014), Director RSL LifeCare (ret. November 2014)

Person	Name and position(s)
Mr Stephenson	Peter Stephenson OAM – State Councillor RSL NSW (ret. May 2014), Acting State President RSL NSW (Dec 2014 – March 2015), State Vice President - Northern Country RSL NSW (present)
Ms Terranova	Renata Terranova, Branch Accountant RSL NSW (present)
Mr Toussaint	Anthony Toussaint – State Councillor RSL NSW (ret. May 2014), State Vice President - Southern Country RSL NSW (present)
Mr White	Rod White AM RFD – State Honorary Treasurer RSL NSW (ret. March 2015), State President RSL NSW (ret. June 2016), President RSL National (present), Director RSL LifeCare (ret. June 2016), FARM Committee (ret. June 2016), WBI Trustee (ret. June 2016)

Abbreviations

Term	Description
ACNC	Australian Charities and Not for Profits Commission
CFA	Charitable Fundraising Act 1991 (NSW)
FARM Committee	Finance, Audit and Risk Management Committee
Grant Thornton Report	Expense Payment Review report prepared by Grant Thornton dated 9 February 2015
Relevant Period	The period of time the subject of our investigation being from 2006 to present
RSL LifeCare	RSL LifeCare Limited
RSL National	The Returned & Services League of Australia Limited
RSL NSW	The Returned & Services League of Australia Limited (New South Wales Branch)
WBI	Welfare and Benevolent Institute

Information relied on, scope and limitations

The statements and opinions contained in this report are given in good faith. However, in the preparation of this report, we have relied upon the accuracy and completeness of information provided by management and staff of RSL NSW and discussions with the State Councillors, management and staff of RSL NSW.

The documents we requested and have reviewed are listed at Appendix 1.

The report has been prepared by KordaMentha with care and diligence. However, our work did not include the procedures necessary to conduct an audit or to enable us to express an opinion as to whether the financial information contained in this report present a true and fair view in accordance with applicable accounting standards and accordingly, no such opinion is expressed. KordaMentha does not warrant the accuracy or reliability of any of the information supplied to it.

Pre-existing relationships

We have not identified any prior or existing relationships with any of the parties involved in this matter which in our opinion are relevant to our decision to accept this engagement.

Reliance on this report

This is a summary of our preliminary findings only.

We have no responsibility to update this report for events or circumstances occurring after the date of this report, unless there is any subsequent agreement to do so.

This report has been prepared, and may be relied on, solely for the purpose/s specified in the Engagement Letter and use by The Returned & Services League of Australia Limited. This report may only be published or distributed:

- For the purpose/s specified in the Engagement Letter; or
- In accordance with any law or by order of a court of competent jurisdiction.

The express written consent of KordaMentha must be obtained prior to relying upon, publishing or distributing this report, or part of it, for some other purpose. KordaMentha does not accept responsibility to anyone if they use this report for some other purpose.

Methodology

Unless otherwise stated, all figures included in this report are expressed in Australian dollars.

Unless otherwise stated, all years refer to financial years (i.e. 1 July to 30 June).

Fees for this assignment

The fees received or receivable in relation to this assignment are based upon agreed hourly rates for time incurred.

Issues considered

The issues considered during this review have been specifically limited to the matters set out in our Engagement Letter dated 8 November 2016 ('the Engagement Letter'). Our initial terms of reference ('Initial Terms of Reference') that were agreed upon are contained in the Engagement Letter.

Following our initial briefing to the RSL National Board on 22 November 2016 it was decided our terms of reference were to be expanded ('Subsequent Terms of Reference') to include the:

- Investigation of the appropriateness of and conduct related to expense claims made by Mr Rowe for at least 2 years prior to the Grant Thornton Report.
- Investigation of the operations of The WBI and how donations were processed through this fund.
- Investigation into the communications made to RSL NSW State Council by Mr White in connection with Mr Rowe.

See the next page for our Initial and Subsequent Terms of Reference.

Initial Terms of Reference

Our Initial Terms of Reference were detailed in the Engagement Letter dated 8 November 2016 and are as follows:

- *'To identify the nature and extent of all payments made to or other benefits received by Mr Roderick White AM RFD (National President RSL) in connection with his association with RSL NSW and RSL LifeCare including in his capacity as a State Councillor of NSW, State Treasurer of NSW, Director of RSL LifeCare or as consultant to them, for the period 2004 to the present ('Relevant Period').*
- *To identify all members of the RSL NSW State Council who were simultaneously Directors of RSL LifeCare ('Common Directors') for the Relevant Period.*
- *To identify the members of the FARM committee of RSL NSW who were simultaneously members of the Board of RSL LifeCare for the Relevant Period.*
- *To investigate the influence Mr White had, alone or in connection with others (and who), over decisions of the NSW State Branch for donations or other payments made by the State Branch and Sub-Branched to RSL LifeCare or people associated with that organisation.*
- *Comment as to whether the common Directors ought to be the subject of further investigation and why.*
- *Comment on any matter or thing which becomes apparent during the course of the investigation which may warrant further consideration of the financial affairs of RSL NSW, the FARM Committee, RSL LifeCare Limited or any person associated with them, and why.'*

Subsequent Terms of Reference

Our Subsequent Terms of Reference were agreed on following our initial briefing with RSL National on 22 November 2016 and are as follows:

- *'If possible, speak with relevant individuals about Mr White's involvement in approving and investigating Mr Rowe's expenses and Mr White's role in influencing donations to RSL LifeCare.*
- *Establish Mr White's role in approving expenses for Mr Rowe and others at RSL NSW.*
- *If possible, investigate the expenses paid to Mr Rowe in at least 2 years before the Grant Thornton investigation period.*
- *Investigate the communications and Board Minutes made to the RSL NSW State Board in connection with Mr Rowe by Mr White.*
- *Determine Mr White's knowledge of Mr Rowe's inappropriate conduct in connection with expenses.*
- *Determine Mr White's role in influencing donations to RSL LifeCare.*
- *Establish the legitimacy of donations from WBI to other institutions (i.e. consistent with the WBI guidelines).*
- *Establish approval process for donations and conformance with the process.*
- *The role of the GM DefenceCare in the approval process and conformance with the process.*
- *The appropriateness of expenses e.g. travel claimed through WBI.'*

Findings by Terms of Reference

- In the key findings section of our report we have outlined our findings in the following categories consistent with the Terms of Reference:
 - Consultancy fee payments by RSL LifeCare;
 - WBI and donations to RSL LifeCare; and
 - Expense claims of Mr Rowe.

'To identify the nature and extent of all payments made to or other benefits received by Mr Roderick White AM RFD (National President RSL) in connection with his association with RSL NSW and RSL LifeCare including in his capacity as a State Councillor of NSW, State Treasurer of NSW, Director of RSL LifeCare or as consultant to them, for the period 2004 to the present.'

- From at least 2006 to 2016 Mr White, whilst a member of the RSL NSW State Council and a Director on the Board of RSL LifeCare, received payments from RSL LifeCare for what are described in the Financial Statements of LifeCare as “consultancy fees”.
- The consultancy fees paid to the State Council members of RSL LifeCare commenced in 2007 where Mr White and Mr Crosthwaite first received these payments. We understand that Mr White became Chairman of the Board of RSL LifeCare in 2004.
- The total amount paid during this period to the Directors of RSL LifeCare for what were described as consultancy fees was \$2,552,751.
- In our letter dated 24 November 2016, KordaMentha requested Mr White to provide details of the nature and extent of the consultancy services he provided together with supporting documentation. Further, he was asked to meet with KordaMentha to discuss the consultancy payments. Mr White refused to provide any documentation or participate in a meeting with KordaMentha.
- RSL LifeCare have declined to provide KordaMentha with documents concerning the payments of the consultancy fees to Directors following our request to them for documents on 8 November 2016 citing the payments relate to a private agreement between the Directors and RSL LifeCare.
- We note that under Section 48 of the CFA Directors performing consultancy work for not for profit organisations must have approval of the relevant Minister. It appears the consultancy works alleged to have been performed by the Directors have not been approved by the relevant Minister.

- We received anecdotal information that the consultancy fees paid to members of RSL NSW State Council by RSL LifeCare were for their role as advisors on the Board.

'To identify all members of the RSL NSW State Council who were simultaneously directors of RSL LifeCare for the Relevant Period.'

- During the period 2006 to 2016 eight members of the RSL NSW State Council received payments described as consultancy fees whilst also Directors on the RSL LifeCare Board.
- By 2010 all Directors of RSL LifeCare were receiving consultancy fees including the Directors on the Board from the RSL NSW State Council.

'To identify the members of the FARM committee of RSL NSW who were simultaneously members of the Board of RSL LifeCare for the Relevant Period.'

- The individuals below were on the FARM Committee whilst being Directors or RSL LifeCare from at least 2006 to 2014:
 - Mr White;
 - Mr Rowe; and
 - Miss Mulliner.
- In 2015 Miss Mulliner and Mr White remained on the FARM Committee. Mr Rowe resigned from all boards and committees following his resignation as State President of RSL NSW on 25 November 2014.

Relevant constitutional considerations

- Under Section 19(a) of the RSL NSW Constitution, dated 25 May 2011, State Councillors are not be remunerated for services provided to RSL NSW from the income generated by RSL NSW either directly or indirectly.

- Further, under Section 12.2 of the RSL LifeCare Constitution, dated 1 March 2012, it is specifically stated that Directors are not to be remunerated for their ordinary services as Directors.
- Under Section 3.2(d) of the RSL LifeCare Constitution Directors may be allowed to receive consultancy payments where it is for services provided in a technical or professional capacity and has the prior approval of the other Directors on the RSL LifeCare Board.
- Under Section 48 of the CFA the Directors of RSL LifeCare need to obtain permission from the relevant Minister to be able to receive consultancy fee payments under Section 3.2(d) of the RSL LifeCare Constitution.

Introduction

Key findings – WBI and donations to RSL LifeCare

'To investigate the influence Mr White had, alone or in connection with others (and who), over decisions of the NSW State Branch for donations or other payments made by the State Branch and Sub-Branched to RSL LifeCare or people associated with that organisation.'

This Initial Term of Reference above was extended by the following Subsequent Terms of Reference:

- *'If, possible, speak with relevant individual about Mr White's involvement in approving and investigating Mr Rowe's expenses and Mr White's role in influencing donations to RSL LifeCare.'*
- *Determine Mr White's role in influencing donations to RSL LifeCare.*
- *Establish the legitimacy of donations from WBI to other institutions (i.e. consistent with the WBI guidelines).*
- *Establish approval process for donations and conformance with the process.*
- *The role of the GM DefenceCare in the approval process and conformance with the process.*
- *The appropriateness of expenses e.g. travel claimed through WBI.'*

Our findings for this component of the Terms of Reference are listed below:

- In respect to membership of the Board of RSL LifeCare and the FARM Committee:
 - Mr Rowe and Mr White were members of both from at least 2006 to 2015. In November 2014 Mr Rowe resigned from these positions whilst Mr White remained in both positions until May-June 2016; and
 - Mr Humphreys occupied both positions from at least 2012 to present.
- In addition to the FARM Committee, Mr White and Mr Rowe were also the Trustees of the WBI from at least 2006 to 2015 with Mr Rowe resigning from WBI in November 2014.

- Whilst on the FARM Committee and WBI Mr White and Mr Rowe were involved in the decision-making to direct donations from RSL Sub-Branched and the Women's Auxiliaries to RSL LifeCare via WBI.
- The amount of donations paid to RSL LifeCare through RSL Sub-Branched and Women's Auxiliaries from 2012 to 2016 was \$1,065,593.
- Approximately 50% of these funds donated to RSL LifeCare appear to have been directed from the RSL Sub-Branched and the Women's Auxiliary through WBI. The funds were paid to RSL LifeCare shortly after being received by WBI.
- It appears the total amount sent to RSL LifeCare from January 2011 to December 2015 was \$513,662. In each year the amount paid to RSL LifeCare was described as "grants" in WBI's Financial Statements.
- There was a lack of documentation on the file held by RSL NSW concerning the activities of WBI as they related to RSL NSW in particular information from donating Sub branches and Women's Auxiliary as to the amount of donations and how those donations were to be applied.
- The use of WBI was described by members of the senior management team of RSL NSW as a clearing house and not a proper use of the WBI account.
- We met with the GM of DefenceCare who stated that she had little involvement in the decision-making around donations from WBI and no oversight of the day-to-day financial operations of WBI.
- At this stage we have not been able to complete a review of expenses due to lack of time.

Subsequent Terms of Reference given in relation to the expense claims of Mr Rowe include:

- *‘Establish Mr White’s role in approving expenses for Mr Rowe and others at RSL NSW.*
- *If possible, investigate the expenses paid to Mr Rowe in at least 2 years before the Grant Thornton investigation period.*
- *Investigate the communications and Board Minutes made to the RSL NSW State Board in connection with Mr Rowe by Mr White.*
- *Determine Mr White’s knowledge of Mr Rowe’s inappropriate conduct in connection with expenses.’*

Our findings for this component of the Terms of Reference are listed below:

- From January 2009 to December 2014 Mr Rowe incurred expenditure of approximately \$475,000 on his corporate credit card. Of the total expenditure during this period:
 - Approximately \$213,000 was made in cash withdrawals; and
 - Approximately \$38,000 was for Mr Rowe’s Optus bills.
- In November 2014 Miss Mulliner allegedly advised Mr White that she had concerns about the appropriateness of expenses claims submitted by Mr Rowe as they related to his Optus Account.
- Mr White apparently examined certain aspects of the claims and according to a briefing note prepared by Miss Mulliner, based upon this examination, approached Mr Rowe and demanded he resign as RSL NSW State President or he would initiate a Forensic Audit of Mr Rowe’s expenses.
- Mr Rowe subsequently resigned on 25 November 2014.
- Mr Cannings was informed with the issues regarding Mr Rowe’s expense claims and advised RSL NSW on the terms of reference for which a Forensic Audit should be conducted on.

- Grant Thornton commenced their review of Mr Rowe’s expense claims during January 2015 and prepared a report with their findings dated 9 February 2015.
- Mr Cannings reviewed the Grant Thornton Report and advised the RSL NSW State Council that there were no criminal issues relating to Mr Rowe’s expense claims so no further action needed to be taken.
- Based upon advice provided by Mr Cannings to the RSL NSW State Council the RSL NSW State Council took the decision not to extend the investigation period but did seek reimbursement from Mr Rowe for some of the costs related to his Optus Mobile account.
- Mr White, as the Honorary State Treasurer of RSL NSW, was responsible for authorising Mr Rowe’s expenses however we have not found any evidence to show that he was authorising the expenditure.
- It appears Mr White did not inform the RSL NSW State Council before demanding the resignation of Mr Rowe after he became aware in November 2014 of the anomalies in the expense claims lodged by Mr Rowe. We question whether Mr White ought to have first informed the RSL NSW State Council before he approached Mr Rowe demanding his resignation.
- Based upon our review of the expenses claims of Mr Rowe we believe that further inquiries are required concerning the potential culpability of Mr Rowe and that following those inquiries the matter be referred to RSL NSW State Council.

The Initial Terms of Reference required us to make recommendations as to:

- *‘Comment as to whether the common Directors ought to be the subject of further investigation and why.’*
- *‘Comment on any matter or thing which becomes apparent during the course of the investigation which may warrant further consideration of the financial affairs of RSL NSW, the FARM Committee, RSL LifeCare Limited or any person associated with them, and why.’*

In respect to these specific requests we recommend the following:

- That all Directors who have simultaneously held positions with the RSL NSW State Council and RSL LifeCare be requested to:
 - Provide details of the consultancy services they provided;
 - Provide relevant supporting documentation evidencing the consultancy services; and
 - Meet with KordaMentha to discuss the consultancy service arrangements.
- That the activities of the FARM Committee and WBI be the subject of a detailed Forensic Review with particular reference to:
 - Payments to RSL LifeCare by WBI and other entities within RSL NSW;
 - Payments for travel and other expenses incurred by members of RSL NSW; and
 - The legitimacy of donations to other charities and entities by WBI.
- Given our findings in relation to the payment of consultancy fees to the Directors of RSL LifeCare and the lack of co-operation of RSL LifeCare in our inquiry that RSL NSW investigate the propriety of RSL LifeCare’s governance arrangements.

In addition we make the following recommendations:

- That KordaMentha provides a briefing to the ACNC on the results of our inquiries to date.
- We provide a copy of this report to the ACNC.
- The RSL NSW State Executive be provided with a briefing on the results of our inquiry to date.
- Further inquiries be undertaken in relation to the expenses claims of Mr Rowe. This would specifically include obtaining written statements from selected individuals.
- RSL NSW convenes a Board of Enquiry to investigate the propriety of the payment of consultancy fees to RSL State Councillors whilst of the Board of the RSL LifeCare.
- RSL NSW convenes a Board of Enquiry to consider Mr White’s handling of the issues surrounding Mr Rowe’s expense claims and his communication of these issues to RSL NSW State Council.

Professional guidelines

We have complied with the requirements of APES 215 – Forensic Accounting Services, the professional code of practice of CPA Australia and Chartered Accountants Australia and New Zealand.

APES 215 defines an Expert Witness Service as ‘a Professional Service provided in the context of Proceedings to give expert evidence in a Report or, in certain circumstances, orally.’

APES 215 defines a Consulting Expert Service as ‘a Consulting Expert Service means a Professional Activity provided in the context of Proceedings, other than an Expert Witness Service, a Lay Witness Service or an Investigation Service. It includes acting as an adviser, an arbitrator, mediator, member of a professional tribunal, expert in an expert determination, referee or in a similar role.’

We are not providing an Expert Witness Service as defined in APES 215.

In accordance with APES 215, and in consideration of the scope of work, we have conducted this engagement, and prepared this report as an Investigation Service.

APES 215 defines an Investigation Service as ‘a Professional Service to perform, advise on, or assist with an investigation, whether or not in the context of Proceedings, in connection with allegations of, or concerns regarding conduct that may be illegal, unethical or otherwise improper.’