

STATEMENT BY NATIONAL COUNCIL

MARITIME UNION OF AUSTRALIA

REGARDING LITIGATION ON BEHALF OF MR RICHARD LUNT AND MR TORREN MCMASTER

As members may be aware, in May 2013 Mr Richard Lunt was dismissed by Qube Ports Pty Ltd (Qube). Mr Torren McMaster, along with three other employees were also dismissed by Qube in July 2013. Each employee was working at Qube TT Line, Station Pier.

Proceedings challenging the dismissals were pursued by Mr Lunt in the Fair Work Commission and by Mr McMaster in the Federal Court of Australia respectively. In each case, the proceedings were ultimately unsuccessful.

Assistance provided to Mr Lunt

Throughout the course of his unfair dismissal proceeding at the Fair Work Commission, Mr Lunt was provided with the following legal assistance, fully funded by the Union:

1. MUA National Legal Officers.
2. MBL.
3. Slater and Gordon Lawyers.
4. Herman Borenstein QC.

Assistance has also been provided to Mr Lunt including fundraising events at the Victoria Branch, and various personal expenses.

During the course of the events set out above representations were made to Qube by Warren Smith, Assistant National Secretary, and National Secretary, Paddy Crumlin to reinstate Mr Lunt. As a result of those representations Qube offered an amount in excess of the maximum compensation available under the Fair Work Act 2009 to settle Mr Lunt's unfair dismissal claim. The offer was rejected by Mr Lunt.

Assistance provided to Mr Torren McMaster

As some members may also be aware, Mr McMaster's claim was initially upheld in a Decision by Justice North of the Federal Court. Qube appealed the Decision, and in a unanimous decision the Full Federal Court upheld the appeal 3 - 0, and quashed the decision of North J.

Shortly after the Full Federal Court handed down its Decision, Mr McMaster contacted the MUA indicating that he wished to appeal Full Federal Court Decision in the High Court. He was informed by his legal representatives that there was no guarantee the High Court would

hear his case and, more critically, their view was that Mr McMaster's case no longer had any reasonable prospects of success. Accordingly, they advised that ethically they could not continue to act for him.

Mr McMaster disputed this advice, and to further support him and ensure all avenues for his claim had been explored, the MUA funded a further opinion from Queen's Counsel on the prospects of any special leave application by Mr McMaster in the High Court. Queen's Counsel advised that he saw no further grounds for appeal and was of the view the High Court would not grant special leave to hear Mr McMaster's appeal.

Following the advice, Deputy National Secretary, Will Tracey met with Mr Master to explain that the MUA could no longer fund any further legal action on his behalf and that if Torren wished to seek an alternate opinion, this would be at his own expense. Despite this advice, Mr McMaster indicated that he had sourced separate legal advice that stated an appeal to the High Court would be successful. On receipt of this information Deputy National Secretary Will Tracey again spoke to Mr McMaster and informed him that the MUA would review our decision on the basis of Torren providing his written legal advice to the MUA. The legal advice has not been provided.

The legal assistance for Mr McMaster has involved the following legal representation, fully funded by the Union:

- MUA National Legal Officers;
- Maurice Blackburn Lawyers (MBL);
- Stephen Moore (Senior Counsel);
- Rigby Cooke (formerly Aitken Partners), solicitor Rob Jackson;
- Mark Champion (Counsel);
- Herman Borenstein QC (Senior Counsel).

The National Council of the Maritime Union of Australia unanimously supports the actions taken by Officers and employees of the Union, and the Union's legal representatives, as outlined above, in support of Mr Lunt and Mr McMaster. All efforts have been made to seek redress for Mr Lunt and Mr McMaster and all those involved have acted in their best interests. Whilst it is unfortunate that there are no further available legal avenues that the Union can pursue on their behalf, National Council unanimously affirms that the Union and its Officers have acted on behalf of Mr Lunt and Mr McMaster according to their obligations under the Fair Work (Registered Organisations) Act 2009 and the Rules of the Union.