



APPENDIX A

Report on Proactive Compliance Deed

between

Red Rooster Foods Pty Ltd ACN 51 008 754 096

and

The Commonwealth of Australia

(as represented by the office of the Fair Work Ombudsman)

Compiled by Quick Service Restaurants Holdings Pty Ltd

(holding company for Red Rooster Foods Pty Ltd)

Dated 19 June 2014

Contents

Background	Page 3
Methodology and Implementation	Page 3
Results & Progress	Page 4
Conclusions & Observations	Page 5
Rate Table	Appendix A1
Liability Tracking Sheet	Appendix A2
Payslips	Appendix A3

Background

Red Rooster Foods Pty Ltd entered into a Proactive Compliance Deed (Deed) with The Commonwealth of Australia as represented by the Office of the Fair Work Ombudsman in February 2012. The Deed required Quick Service Restaurants Holdings Pty Ltd (QSRH) to audit the respondents of the Red Rooster Agreement 2009 with a view to identifying and rectifying underpayments of all current and past employees of these respondents during the audit period of January 2010 to December 2011.

Red Rooster Foods Pty Ltd operates the Red Rooster brand in Australia and as part of that business grants third parties (franchisees) the right to operate a Red Rooster outlet pursuant to its standard franchise Agreement. At the time the Proactive Compliance Deed became effective Red Rooster Foods Pty Ltd and its franchisees employed over 7000 employees nationally in Red Rooster stores.

In October 2011 the Fair Work Ombudsman (FWO) advised Quick Service Restaurants Holdings Pty Ltd (QSRH) that under subsection 206(1) of the Fair Work Act 2009 (Cth), a base rate in an Enterprise Agreement cannot be less than the base rate of pay under a modern award that would otherwise cover employees (in the case of Red Rooster that award is the Modern Fast Food Award). If the Agreement rate is less than the award rate, then subsection 202(2) provides that the Agreement has effect in relation to the employees as if the Agreement rate were equal to the award rate. The FWO subsequently advised that the named respondents to the Red Rooster Agreement 2009 but not respondents to the Red Rooster Award 2002 (Enterprise Award) who were applying the rates derived from this Agreement were paying below the transitional base rates from the relevant pre-modern Award(s) to the Modern Fast Food Award. These rates were later agreed as being those in Appendix A1. The transitional rates in Appendix A1 did not apply to Red Rooster Foods Pty Ltd and any franchisee who was a respondent to the Red Rooster Award 2002 as this was an enterprise instrument (Item 2 of Division 1 Part 2 of Schedule 6 of the Fair Work (Transitional and Consequential Provisions) Act) and was not covered by the Modern Fast Food Award and therefore subsection 202(2) did not apply.

Methodology and Implementation

The scope of the audit related to Grades 1, 2 and 3 Crew as defined in the Red Rooster Agreement 2009. The audit included crew who were employed by existing and current Red Rooster franchisees in respect of the period from January 2010 to 31 December 2011. These franchisees were not respondents to the Red Rooster Award 2002. The audit was a "desk-top" audit undertaken by several certified practising Accountants employed by QSRH in their Perth, WA Office.

All franchisees' employee pay information for this period was manually input into an excel spread sheet by the franchisees and sent to the QSRH Accountants. The Accountants imported the agreed rates as set out in Appendix A1 into the spread sheets and calculated any contravention to the rates as set out in Appendix A1 the "back pay liability". The completed spread sheets were then sent back to the franchisees identifying the contravention and showing the back pay liability for current and ex-employees.

Franchisees subsequently provided payslip information to confirm back pays had been made to pre-determined email addresses direct to the QSRH Accountants for them to reconcile to the Liability Tracking Sheet (Appendix A2). The Liability Tracking Sheet shows the results of the Self-Audit process and includes but is not limited to, the nature and quantum of each identified contravention which arose from the Self Audit process. Copy payslips are provided in Appendix A3.

Employee Reporting Process

Week commencing 20 February 2012 an "important notice" was posted on Red Rooster Foods Pty Ltd's on-line communication and training platform for Red Rooster franchisees and their employees who were covered by the Proactive Compliance Deed. Specific State and Territory emails were set up for employees to email their inquiries and concerns to. The same franchisees were also requested to physically post this "important notice" in their outlets.

There was a very limited response to this notice only 4 inquiries were received from 20 February 2012 to 18 March 2012.

IMPORTANT NOTICE ABOUT YOUR PAY

Red Rooster and its Franchisees have agreed to review crew payments made between January 1, 2010 and December 31, 2011 to ensure employees are receiving the correct pay.

The review will be conducted by Quik Service Restaurant Holdings (QSRH) which is Red Rooster's parent company.

If QSRH finds any instances of underpayment through this review, we will request that your employer rectifies this situation.

If you have any concerns about payments you received during the dates listed above, you are encouraged to put your concerns in writing and we will investigate on your behalf. To do that you must provide:

- Your full name
- Your full postal address
- Your job title
- The nature of your query, providing the dates and times of the shifts you worked
- Proof that you worked

If you do not include all of the above information your query may not be able to be processed. Please send this information to one of the email addresses below for the State in which you currently work:

State	Email Address
ACT	rrpayqueriesact@qsrh.com.au
NSW	rrpayqueriesnsw@qsrh.com.au
NT	rrpayqueriesnt@qsrh.com.au
QLD	rrpayqueriesqld@qsrh.com.au
SA	rrpayqueriessa@qsrh.com.au
VIC	rrpayqueriesvic@qsrh.com.au
WA	rrpayquerieswa@qsrh.com.au

Your information must be received no later than 5pm March 16, 2012 Eastern Standard Time.

You are also able to access information about your entitlements and rights at work by visiting the Fair Work Ombudsman website at www.fairwork.gov.au or speaking to a Fair Work Advisor on 13 13 94.

Results and Progress of the Self-Audit Process

QSRH has committed all necessary resources, financial or otherwise and has met all necessary expenses associated with the effective implementation of this Deed. QSRH encouraged those Red Rooster franchisees to rectify where contraventions have been identified. This has been through a process of constant communication with individual franchisees via email, one on one conversations, webinars, road shows and via their State Managers and regional field support teams from February 2012 to date.

The total amount of back pay liability for the Red Rooster franchisees as listed in Appendix A2 for the period January 2010 to December 2011 (audit period) totals \$645,253. The total amount repaid as at 19 June 2014 is \$346,285, copy payslips are provided where back pays have been made (Appendix A3).

The table below provides a summary of the final results in terms of completed audits and back pay rectification.

	Total employees	Total underpayments
Audits completed	3 140	\$645 253
Back payments completed	1206	\$346,285
Back payments in progress	1934	\$298,968

Conclusions/Observations

QSRH on behalf of its Red Rooster franchisees would like to state, for the record, that it was never their intention to underpay their employees. Their understanding was that they were meeting their employer obligations under the Red Rooster Agreement 2009 by paying the amounts specified in this Agreement. There was no resistance from the franchisees to rectify the rates immediately, once it was realised that they must meet the transitional rates as a minimum. However, the back pay for all current and ex- employees for almost a two year period has been, for most, quite a significant financial burden during a tough economic period which has included rising utility bills and taxes and more challenging trading conditions.

Signed

LORRAINE BOSWELL

Name

Lorraine Boswell

Signature

Red Rooster Authorised Representative

Signed

Meta Maass

Name

META MAASS

Signature

Certified Practising Accountant