

Our reference: [REDACTED]

[REDACTED]
Liberty Holdings Australia Limited
[REDACTED]

By email: [REDACTED]

Dear [REDACTED]

Imposition of \$11,000 civil penalty on Liberty Holdings Australia Limited

I refer to the State Insurance Regulatory Authority (SIRA) show cause notices issued to Liberty Holdings Australia Limited (Liberty) dated 19 December 2023 and 25 January 2024.

Liberty failed to submit its audited financial statements to SIRA for the financial year ending 30 June 2023, due 31 October 2023, breaching section 189 of the *Workers Compensation Act 1987, (1987 Act)* and Liberty's NSW workers compensation licence condition 5.

SIRA invited Liberty to make submissions in response to its proposed intention to impose a civil penalty in accordance with section 183A of the 1987 Act.

On 29 December 2023, Liberty responded advising:

"Good internal progress has been made and draft accounts are prepared and are with our Auditor KPMG. Our Auditor advised that due to their internal holidays that they could not finalise their reviews in December and now will close out in January by end of month."

On 23 January 2024, Liberty responded advising:

"In formal response to you (sic) Show Cause letter, please find below and attached. Please find attached our signed and audited InfraBuild statements. As you can see in the attached LHA structure slides, these cover all our NSW entities under our self-insurance licence and include all financial (sic) for all our NSW entities."

On 6 February 2024, Liberty further responded acknowledging issues with providing its audited financial statements for the period ended 30 June 2023 advising:

"With respect to financial statements, I note signed and audited statements for InfraBuild were provided on 23 January 2024 which covers all our NSW entities under our self-insurance licence and include all financial (sic) for all our NSW entities. We note that our Group Financial Controller is happy to provide any undertakings to your financial teams to ensure full understanding of these statements."

We are awaiting a response from SIRA after provision of these documents. We note there have been issues in providing the audited statements for LHA over the past few years and we are working with our finance and external audit teams to rectify these issues.”

Regulatory action

SIRA has considered the available relevant information including Liberty’s show cause notice submissions. SIRA is satisfied Liberty has breached section 189 of the 1987 Act and its licence conditions by failing to provide the audited financial statements for the period ended 30 June 2023 by 31 October 2023.

SIRA is of the view for the reasons set out below that the most appropriate regulatory response for the breach of licence conditions by Liberty is to impose a civil penalty on Liberty as provided for under section 183A of the 1987 Act in the amount of \$11,000.

Civil Penalty

SIRA has taken into consideration the following factors in assessing the amount of the civil penalty, noting that under section 183A of the 1987 Act such a penalty is not to exceed \$50,000.

Liberty as an established NSW workers compensation self-insurance licence holder should have been aware of its regulatory requirement to lodge its annual audited financial statements with SIRA within four months from the end of the financial year.

SIRA issued Liberty a notification via the Insurer Accountability Portal on 30 June 2023, advising Liberty its S189 Annual Review business information documents were due 31 October 2023.

On 20 October 2023, SIRA issued Liberty a reminder letter advising its S189 Annual Review business information documents were due 31 October 2023.

Liberty failed to submit to SIRA the audited financial statements for Liberty Holdings Australia Limited for the period ended 30 June 2023 by 31 October 2023 as per its standard licence condition.

On 2 November 2023, SIRA issued Liberty an overdue letter reminding Liberty of its requirements to lodge its audited financial statements for the period ended 30 June 2023.

On 16 November 2023, SIRA granted Liberty an extension to submit its S189 Annual Review business information documents by 30 November 2023. On 29 November 2023, SIRA held a monthly performance meeting with Liberty. Despite this extension, Liberty did not provide the required information by 30 November 2023.

On 1 December 2023, Liberty emailed SIRA including draft audited financial statements, stating:

“We should have sign off within 3 weeks”

SIRA reminded Liberty about the requirement to lodge its S189 Annual Review business information documents due 31 October 2023 at the following monthly performance meetings: 20 July 2023, 24 August 2023, 21 September 2023, 23 October 2023, 29 November 2023, and 21 December 2023.

Liberty's delayed lodgement of its audited financial statement restricted SIRA's ability to evaluate Liberty's financial position, determine appropriate security measures, and SIRA incurring additional regulatory costs to regulate Liberty.

SIRA expects Liberty to have the necessary regulatory reporting controls in place to meet its obligations as a self-insurer.

After considering the above, SIRA is of the view that a civil penalty in the amount of \$11,000 is an appropriate penalty, considering accountability and deterrence against future non-compliance with the legislation and licence conditions.

Conclusion

The regulatory enforcement outcome of this matter will form part of Liberty's compliance history and will be considered by SIRA if there are further contraventions of licence conditions and obligations under the Acts and guidelines.

SIRA will continue to engage regularly with Liberty to monitor its compliance with the legislation and its standard and any special licence conditions.

To bring this matter to a close, please refer to the enclosed invoice for payment of the civil penalty within the next 30 days. Please note that the attached invoice date is 12 June 2024. As I am writing to you today, 14 June 2024, the due date for the invoice payment is close of business 17 July 2024.

SIRA may publish information on its website and other digital channels including LinkedIn. This publication may reference civil penalties imposed, in accordance with SIRA's Regulatory Publishing Policy.

Should you wish to discuss this matter please contact me via [REDACTED] or [REDACTED] or email [REDACTED], SIRA Insurer Supervision Manager at [REDACTED].

Sincerely,



Darren Parker

Executive Director, Workers & Home Building Compensation Regulation
State Insurance Regulatory Authority

Enc./1 – Tax invoice

Date: 14 June 2024