

Serrano, Caroline

From: Serrano, Caroline
Sent: Friday, 10 October 2008 11:58 AM
To: EC/LC Papers
Cc: McDonald, Melinda; Dale, Alexandra
Subject: RE: Agenda item [SEC=UNCLASSIFIED]

Categories: SEC=UNCLASSIFIED
ACCC Classification: SEC=UNCLASSIFIED

Hi Trish,

EC Paper number EC08/198 is attached.



EC Paper - Mercy
Ministries.do...

Regards,

Caroline Serrano

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From: Adams, Trisha **On Behalf Of** EC/LC Papers
Sent: Friday, 10 October 2008 9:45 AM
To: Serrano, Caroline
Cc: McDonald, Melinda; Dale, Alexandra
Subject: RE: Agenda item [SEC=UNCLASSIFIED]

Hi Caroline

Your staff paper number is EC08/198. Meeting number 32.

Cheers Trish

From: Serrano, Caroline
Sent: Friday, 10 October 2008 9:30 AM
To: EC/LC Papers
Cc: McDonald, Melinda; Dale, Alexandra
Subject: Agenda item [SEC=UNCLASSIFIED]

Hi,

We have the following matter for inclusion in the EC agenda:

TRACKIT: 34468 Complaints against Mercy Ministries and [REDACTED]

Misleading and deceptive conduct in the provision of counselling services by a faith-based organisation and unconscionable conduct in its dealings with vulnerable young women.

Purpose: To inform the Enforcement Committee of the investigation and to obtain direction that the investigation continues as proposed, [REDACTED]

Staff: **Caroline Serrano**, Melinda McDonald and Alexandra Dale

Caroline Serrano

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Enforcement Committee

MEETING DATE: 16 October 2008

MEETING No: 32

EC08/198

TRACKIT No: 34468 - Brisbane

Title: Complaints against Mercy Ministries

Description: Alleged misleading and deceptive conduct in the provision of counselling services by a faith-based organisation and unconscionable conduct in its dealings with vulnerable young women.

Commenced: 30-Sep-2008

Priority:

Status: Investigation

Last considered: Not previously submitted

Project Team: Caroline Serrano, Melinda

McDonald and Libby Jennings.

Purpose of submission

To inform the Enforcement Committee of the investigation and to obtain direction that the investigation continues as outlined.

Summary of key considerations

1. A number of complaints against Mercy Ministries Incorporated (Mercy Ministries) were referred to the Brisbane office in April following an article published in the Sydney Morning Herald. Correspondence was also received by the Assistant Treasurer from Senator Lyn Allison requesting the Commission to investigate Mercy Ministries.
2. Mercy Ministries is a charitable organisation alleged to have been involved in making misleading statements and engaging in unconscionable conduct.
3. [REDACTED]
4. Due to the nature of the complaints, this matter continues to receive both media and public interest. We continually receive calls from journalists and the public seeking information regarding the progress of our investigation.

Recommendations

The Enforcement Committee notes the investigation and endorses staff's recommendation to continue the investigation as outlined.

Funding

	Expenditure		Additional Funding Sought	
	Previous Years	Year to Date	Current Year	Next Year
Legal Fees	\$0.00	\$0.00		
Legal Expenses	\$0.00	\$0.00		
Counsel Fees	\$0.00	\$0.00		
(Minus funding surplus / Add funding deficit)				
Unpaid invoices				
Unbilled work				
Total	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

Current financial year budget allocation

Notes on funding:

The recommendations, including funding, are supported by Regional Director/Branch Manager

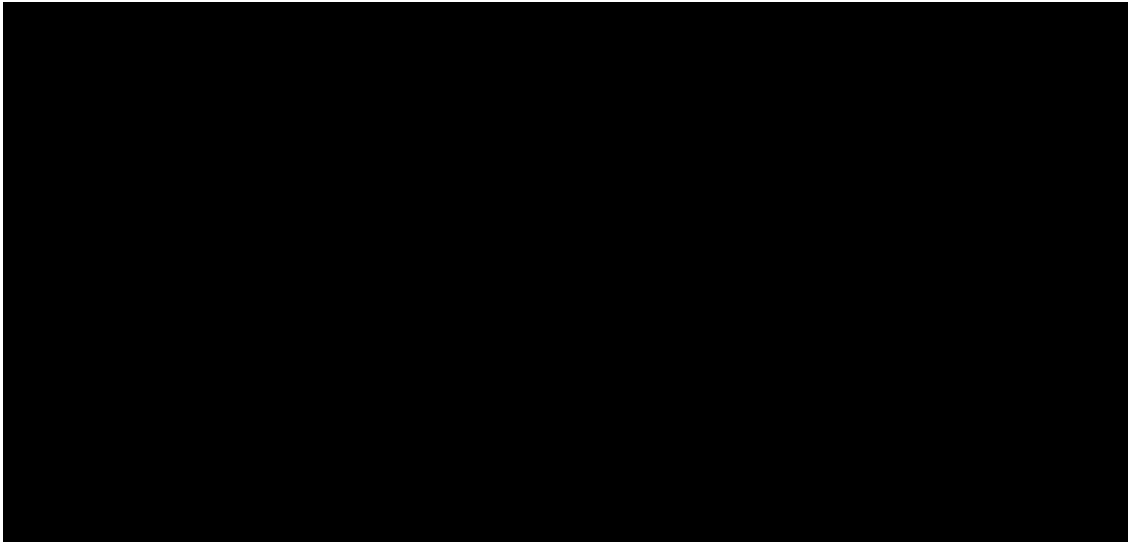
1. Purpose of submission

- 1.1 To inform the Enforcement Committee of the investigation and to obtain direction that the investigation continues as outlined.

2. Relevant background

Mercy Ministries

- 2.1 Mercy Ministries is a not for profit organisation that was founded in America.
- 2.2 In 2001, Mercy Ministries (Australia) opened its first residential home in Glenhaven, Sydney. Its second home opened in 2003 in Glenview, Sunshine Coast, which Mercy Ministries stated recently closed (July 2008) due to "strategic and resourcing issues".
- 2.3 Mercy Ministries provides a Christian-based residential program to young women (between the ages of 16 to 28) suffering from a range of illnesses such as bipolar disorder, schizophrenia, anorexia, drug addiction and depression.
- 2.4 The average duration of the residential program was between 10 to 14 months and required a minimum six months commitment from the women.
- 2.5 The young women were required to stay in one of Mercy Ministries' residential facilities during this time and in most instances (especially for those who lived interstate), contact with their family was very limited.
- 2.6 In its websites, brochures and other published materials, Mercy Ministries made various statements including:-
- a. that its staff were qualified to treat mental and health illnesses;
 - b. that it offers professional support to its residents; and
 - c. that its services were free.
- 2.7 Staff consider the above representations to be potentially misleading and deceptive in that:-
- a. Mercy Ministries' staff were not appropriately or professionally qualified to treat or counsel people with mental and health illnesses. Documentary evidence obtained shows that while most staff held qualifications, those qualifications were of a ministerial/pastoral care nature rather than medically based.
 - b. The complainants were allowed to consult with Mercy Ministries' prescribed GP or psychiatrist only for the purpose of renewing or obtaining prescription medicines and only in the presence of a Mercy Ministries staff;
 - c. The complainants claim that they did not have access to professional medical consultation, counselling or treatment despite their requests. Instead, they were referred to the bible.
 - d. Women who were accepted into the program and were eligible to receive Centrelink benefits were required to assign those benefits to Mercy Ministries for the duration of their stay. They were given \$30 per week for incidentals and pharmaceutical expenses. For those with financial commitments, Mercy Ministries required them to seek a sponsor (family or church) who would shoulder their financial commitments on their behalf so that they were still able to transfer their Centrelink benefits to Mercy Ministries.

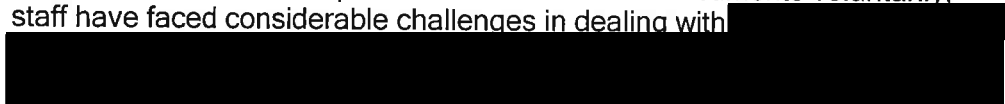


Planned Strategy

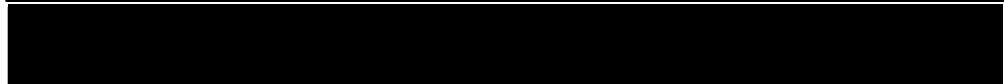
- 2.13 Our complainants are former residents of residential facilities ran by Mercy Ministries and are naturally vulnerable. At the time of being admitted in Mercy Ministries' facilities, they were suffering from a number of conditions including anorexia, bipolar disorder, self-harming or depression.
- 2.14 Given their conditions and vulnerability, staff consider that there may be potential difficulties in pursuing the case using these complainants as witnesses.
- 2.15 Staff are therefore of the view that in this instance, it is best to attempt to pursue a confined misleading conduct case based solely on the documentary evidence obtained.

Recent Developments

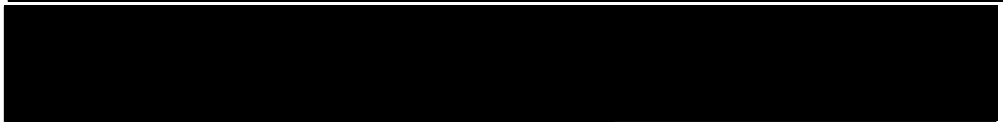
- 2.16 Though Mercy Ministries have adopted a cooperative approach in dealing with the matter and have provided information and documents voluntarily, staff have faced considerable challenges in dealing with



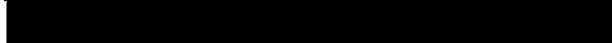
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2.18

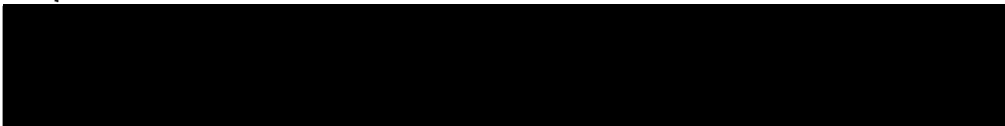


2.19



Next Steps

2.20



- 2.21 Staff intend to revert to the Enforcement Committee for future direction when the investigation process is complete and sufficient evidence has been obtained.

3. Alleged conduct

3.1 It is alleged that in making certain various representations, Mercy Ministries engaged in misleading and deceptive conduct in breach of 52, 53 (aa) and 53(e) of the TPA.

3.2 Further, it also alleged that Mercy Ministries engaged in unconscionable conduct in breach of section 51AB of the TPA when it took advantage of young women's illnesses, circumstances and vulnerability in its dealings with the women.

4. Intended outcomes

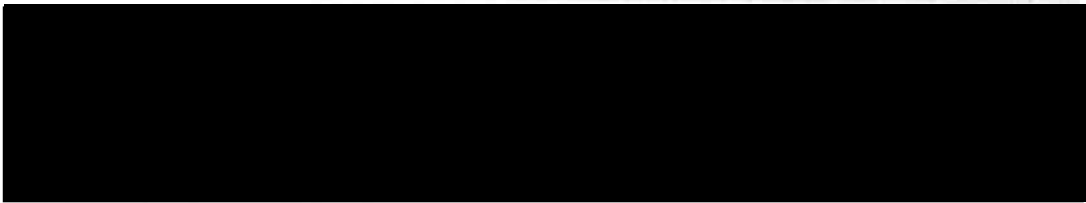
4.1 Stop unlawful conduct.

4.2 Deter future unlawful conduct.

4.3 Achieve a desired outcome by way of compensation - consider option of seeking refund of Centrelink benefits assigned to Mercy Ministries while at the residential program.

Staff are currently liaising with AGS in considering the pursuit of this remedy.

5. Other strategic considerations



6. Recommendations

6.1 The Enforcement Committee notes the investigation and endorses the staff's recommendation to continue the investigation as outlined.

Caroline Serrano

10 October 2008

7. Attachments

NIL