



Australian Government

# Fair Work OMBUDSMAN

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## **ENFORCEABLE UNDERTAKING**

dated 18 April 2011

Given by

**CMA Corporation Limited ACN 113 329 016**

and

**CMA Recycling Pty Limited ACN 107 209 503**

and

**CMA Assets Pty Ltd ACN 112 821 735**

**(hereinafter referred to as the CMA Companies)**

to

**The Commonwealth of Australia**

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

concerning contraventions of Commonwealth workplace laws

## Details

Parties	FWO and CMA Companies	
<b>FWO</b>	Name	Commonwealth of Australia (as represented by the Office of the Fair Work Ombudsman)
	ABN	43884188232
	Address	The Fair Work Ombudsman ( <b>FWO</b> ) GPO Box 9887 Sydney, NSW 2000
	Telephone	(02) 8255 6040
	Fax	(02) 6204 2099
	Attention	Karsten Lehn, Executive Director Complex Investigations and Innovation ( <b>Executive</b> )
	<b>CMA Companies</b>	Name
Address		Level 5, 160 Sussex Street, Sydney, NSW
Telephone		(02) 9200 3500
Fax		(02) 9200 3501
Attention		Bruce Nix, Director, Human Resources
<b>Recitals</b>	A	On 22 October 2009, the FWO received a letter from the Australian Workers' Union alleging that CMA Corporation had breached Commonwealth workplace laws and the FWO commenced an investigation into these allegations ( <b>Investigation</b> ).
	B	By reason of the matters set out in Attachment "A" ( <b>Background</b> ), the FWO has determined, and the CMA Companies acknowledge, that CMA Recycling, CMA Recycling Australia and CMA Assets ( <b>CMA Companies</b> ) contravened Commonwealth workplace laws.
	C	The parties have agreed to resolve the contraventions without the need to resort to civil penalty litigation by way of this Enforceable Undertaking ( <b>EU</b> ) made pursuant to section 715 of the <i>Fair Work Act 2009</i> ( <b>FW Act</b> ).
<b>Governing law</b>	Commonwealth	
<b>Commencement date</b>	The date the parties execute this EU or, if it is executed on different dates, the date of the last execution. See the Signing Page of this EU.	

# General terms

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## 1 Admission of contravention

By reason of the matters described in Attachment "A" (**Background**), which are admitted without demur by the CMA Companies, the CMA Companies contravened Commonwealth workplace laws as set out in Attachment "B" (**Contraventions**).

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## 2 Limit of admission

2.1 The FWO acknowledges that the terms of this EU:

- (a) are solely for the purposes of resolving the FWO investigation into the Contraventions; and
- (b) must not be interpreted as an admission by the CMA Companies of liability for any matter, other than as expressly provided in this EU.

2.2 No assertion or matter in this EU may be relied upon as an admission by any person to support a cause of action in any other civil penalty proceeding.

2.3 However, this term does not prevent any matter in this EU being relied upon in future proceedings in order to inform a relevant Court or tribunal of the details of the conduct that was the evidentiary foundation for the CMA Companies entering into this EU.

2.4 This means that the FWO reserves the right to rely on the terms of this EU and the admissions in respect of any future proceedings brought by the FWO against the CMA Companies in relation to any future contraventions of Commonwealth workplace laws.

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## 3 Enforceable undertakings

The CMA Companies **NOW UNDERTAKE** that, in consideration of the FWO agreeing not to apply for any orders under Commonwealth workplace laws in relation to the Contraventions (as evidenced by the FWO's acceptance of this EU endorsed below), the CMA Companies must do all those activities and things set out in Attachment "C" (**Undertakings**).

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## 4 Acknowledgements

The CMA Companies acknowledge that:

- (a) the undertakings they have given in this EU are reasonable in the circumstances;
- (b) this EU is given to and accepted by the FWO pursuant to section 715 of the FW Act;
- (c) the FWO may:
  - (i) make this EU (and any of the attachments) available for public inspection, including by posting it on the FWO internet site at [www.fwo.gov.au](http://www.fwo.gov.au) (subject to the FWO taking any necessary steps to the retraction of the names of any person affected by the Contraventions);
  - (ii) release a copy of this EU (and any of the attachments to it) pursuant to any relevant request under the *Freedom of Information Act 1982* (Cth);
  - (iii) issue a media release in relation to this EU. The FWO agrees to provide CMA with at least 24 hours notice prior to issuing a media release;
  - (iv) from time to time, publicly refer to the EU (and any of the attachments to it) and its terms;

- (v) rely upon the admissions made by the CMA Companies in paragraph 1 above in respect of any future decision about enforcement action to be taken in respect of any future non-compliance by CMA Companies with Commonwealth workplace relations obligations.
- (d) consistent with the Note to subsection 715(4) of the FW Act, this EU in no way derogates from the rights and remedies available to any other person arising from the conduct set out in this EU; and
- (e) if any of the CMA Companies contravene any of the terms of this EU:
  - (i) the FWO may apply to any of the Courts set out in subsection 715(6) of the FW Act, for orders under subsection 715(7) of the FW Act; and
  - (ii) this EU may be provided to the Court as evidence of the admissions made by the CMA Companies in paragraph 1, and also in respect of the question of costs; and
  - (iii) this EU is to be taken as having been withdrawn by the CMA Companies for the purposes of subsection 715(3) of the FW Act if the FWO gives its written consent (in which case the FWO may apply for orders against the CMA Companies under Division 2 of Part 4-1 of the FW Act).

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## **5 No inconsistent statements**

The CMA Companies:

- (a) must not; and
- (b) must ensure that each of its officers, employees or agents do not,

make any statement, orally or in writing, or otherwise which conveys or implies or reasonably conveys or implies anything inconsistent with admission or acknowledgements contained in this EU.

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## **6 Termination by the FWO**

At any time, the FWO may, by notice in writing, terminate this EU with 7 days' written notice if any of the CMA Companies commit, in the opinion of the FWO, a serious or persistent breach or non-observance of a term or terms of this EU, provided that such breach or non-observance is referred to in the notice.

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## **7 Withdrawal from or variation to this EU**

Consistent with subsection 715(3) of the FW Act, any of the CMA Companies may withdraw from or vary this EU at any time, but only with the consent of the FWO.

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## **8 Continuing obligations**

### **8.1 General survival**

Any provision of this EU remaining to be performed or observed by the CMA Companies or having effect after the cessation of this EU for whatever reason (including termination by the FWO or withdrawal from by any of the CMA Companies) remains in full force and effect and is binding on the CMA Companies after this EU ends.

### **8.2 Survival**

Without limiting the generality of clause 8.1 (**General survival**), the following clauses survive termination of this EU for whatever reason (including termination by the FWO or withdrawal from by any of the CMA Companies):

- (a) Clause 1 (Admissions and contraventions); and

(b) Clause 5 (No inconsistent statements).

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**9 Legally binding agreement**

These terms are intended to have immediate effect on all parties upon acceptance by the FWO of this EU (as evidenced by the FWO's acceptance of this EU endorsed below).

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**10 Entire agreement**

This Agreement constitutes the entire agreement of the parties about its subject matter and supersedes all previous agreements, understandings and negotiations on that subject matter. No oral explanation or information provided by either party to the other:

- (a) affects the meaning or interpretation of this EU; or
- (b) constitutes any collateral agreement, warranty or understanding between the FWO and the CMA Companies.

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**11 No representations or warranties**

The Executive acknowledges that in entering into this EU they have not relied on any representations or warranties about the subject matter of this EU except as provided in this EU.

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**12 Construction**

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on, this EU or any part of it.

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**13 Costs**

The parties must pay their own legal and other costs and expenses in connection with the preparation, execution and completion of this EU and other related documentation.

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**14 Severance**

If the whole or any part of a provision of this EU is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of the agreement has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of this EU or is contrary to public policy.

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**15 Competency**

The CMA Companies acknowledge that:

- (a) before executing this EU, the CMA Companies were given the opportunity to seek independent legal and other advice of their choice;
- (b) in light of any advice provided to the CMA Companies, they considered their position;
- (c) if the CMA Companies have been advised by their solicitors, they have been advised by them as to the terms of this EU; and
- (d) the CMA Companies fully understand the effect of this EU.

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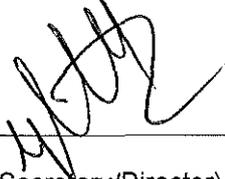
**16 Governing law**

This EU is governed by the law in force in the place specified in the Details. Each party submits to the non-exclusive jurisdiction of the courts of that place.

# Signing page

Dated: 18 April 2011

EXECUTED by CMA Corporation Limited  
ACN 113 329 016 in accordance with  
subsection 127(1) of the *Corporations Act*  
2001 (Cth):



(Signature of Secretary/Director)

**TREVOR SCHMITT**

(Name of Secretary/Director in Full)



(Signature of Director)

**TONG HONG CHUNG**

(Name of Director in Full)

Dated: 18 April 2011

EXECUTED by CMA Recycling Pty Limited  
ACN 107 209 503 in accordance with  
subsection 127(1) of the Corporations Act  
2001 (Cth):



(Signature of Secretary/Director)

TREVOR SCHMITT

(Name of Secretary/Director in Full)



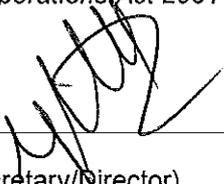
(Signature of Director)

TONG HONG CHUNG

(Name of Director in Full)

Dated: 18 April 2011

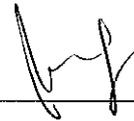
EXECUTED by CMA Assets Pty Ltd ACN  
112 821 735 in accordance with subsection  
127(1) of the Corporations Act 2001 (Cth):



(Signature of Secretary/Director)

TREVOR SCHMITT

(Name of Secretary/Director in Full)



(Signature of Director)

TONG HONG CHUNG

(Name of Director in Full)

ACCEPTED by the FAIR WORK OMBUDSMAN

Dated: 15<sup>th</sup> June 2011



NICHOLAS PAUL WILSON  
FAIR WORK OMBUDSMAN

or by his Delegate subject to the instrument of  
delegation made pursuant to section 683 of  
the FW Act and executed by Nicholas Paul  
Wilson on 2 July 2009.

## ATTACHMENT "A" (BACKGROUND)

1. The CMA Companies form an integrated Australian-based group that provide processing and recycling services.
2. In or about June 2009, 73 employees of the CMA Companies were asked to take a pay reduction, which resulted in their rates of pay being below the minimum rate prescribed by the applicable industrial instruments. The CMA Companies asked these employees to take a pay reduction in an attempt to avert job losses which were anticipated as a result of the Global Financial Crisis.
3. In or about June 2009, these 73 employees of the CMA Companies agreed to pay reductions of varying amounts on an individually negotiated basis. The pay reductions took effect on 1 July 2009.
4. The pay reductions were brought to the attention of the FWO on 22 October 2009 by way of a letter from the Australian Workers' Union.
5. On 4 March 2010 CMA Corporation was notified by the FWO through a contravention letter that 32 employees in NSW who had agreed to pay reductions had not received the minimum rates of pay as prescribed by the CMA Metals Pty Ltd New South Wales Employment Agreement 2006 – 2009 for the period June 2009 to 20 October 2009.
6. On 4 March 2010 CMA Corporation undertook an audit of employees nationally within its body corporate to assess whether employees who had accepted pay reductions were being paid in accordance with the applicable industrial instrument during the period 3 June 2009 to 4 March 2010.
7. On 26 March 2010 CMA Corporation advised the FWO that payments had been made to 27 employees in NSW totalling \$20,002.52 rectifying the outstanding entitlements owed to employees for the identified contravention in paragraph 5 above.
8. On 16 April 2010 CMA Corporation advised the FWO that payments to a further 15 employees of CMA Recycling nationally that had accepted pay reductions totalling \$41,161.81 for contraventions of applicable industrial instruments for the period 1 July 2009 to 4 March 2010. However, CMA Corporation had identified that CMA Recycling had underpaid three of these employees based on the payment of an incorrect rate as opposed to the acceptance of a pay reduction.
9. On 30 April 2010 CMA Corporation advised the FWO of a further 15 employees in CMA Assets that had been subjected to underpayments arising from contraventions of the applicable industrial instrument.
10. On 11 May 2010 CMA Corporation advised the FWO of payments to the further 15 employees nationally (as identified in paragraph 8 above) totalling \$27,660.93 for contravention of an applicable industrial instrument for the period 1 July 2009 to 1 April 2010 under CMA Assets.
11. On 20 May 2010 CMA Corporation advised the FWO of a further underpayment to one employee for a quantum of \$2,217.32 for contraventions of an applicable industrial instrument for the period 1 July 2009 to 1 April 2010 under CMA Assets.
12. On 8 June 2010 CMA Corporation advised the FWO that the payment of outstanding entitlements had been made to the employee of CMA Assets as listed at paragraph 11 (above).
13. On 17 September 2010 CMA Corporation identified and disclosed to FWO that it had inadvertently not provided information to the FWO relating to underpayments to its employees at one particular site. On 30 September 2010 CMA Corporation advised the FWO of a further underpayment to 14 employees for a quantum of \$43,094.12 for contravention of an applicable industrial instrument for the period 1 July 2009 to 1 April 2010 under CMA Recycling.
14. On 20 October 2010 CMA Corporation identified and disclosed to FWO that it had inadvertently paid an employee a rate less than what he should have received during the

period 3 September 2009 to 27 August 2010. On 20 October 2010 CMA Corporation paid the employee make up pay in the quantum of \$3,883.10.

15. Of the total number of employees who received back pay for underpayments from the CMA Companies, three were underpaid due to an administrative error, not because they accepted a pay reduction.
16. CMA Corporation has repaid a total of \$138,019.80 to 73 employees for underpayments that occurred during the period 1 July 2009 to 1 April 2010.

## ATTACHMENT "B" (CONTRAVENTIONS)

### Continued application of the *Workplace Relations Act 1996* (Cth)

1. The *Workplace Relations Act 1996* (Cth) (WR Act) was repealed and replaced with the FW Act on 1 July 2009.
2. The WR Act continues to apply in relation to conduct that occurred before its repeal date pursuant to sub-item 11(1) Part 3 Schedule 2 of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth) (Transitional Act).

### Breach of workplace agreements / agreement-based transitional instruments

3. During 2006 and 2007, CMA Metals Pty Ltd and CMA Recycling entered into workplace agreements with certain employees in New South Wales and Queensland and nationally for its CMA Assets division, in accordance with the WR Act. The agreements lodged were collective agreements within the meaning of section 327 of the WR Act.
4. From the date the collective agreements came into effect until 30 June 2009, the companies identified below were bound by the specified collective agreements pursuant to section 351 of the WR Act.
  - 4.1. CMA Recycling;
  - 4.2. CMA Corporation; and
  - 4.3. CMA Assets.
5. From:
  - 5.1. 1 July 2009 until 20 October 2009 when the CMA Recycling Pty Limited Employment Agreement (New South Wales) 2009 – 2014 commenced operation for NSW excluding one particular site;
  - 5.2. 1 July 2009 until 25 February 2010 the CMA Metals Pty Ltd New South Wales Employment Agreement 2006 – 2009 continued to operate until the CMA Recycling Pty Ltd (Tomago) Enterprise Agreement 2009-2010 commenced operation from 26 February 2010;
  - 5.3. 1 July 2009 until 15 January 2010 when the CMA Recycling Pty Limited Employment Agreement (QLD) 2009 – 2014 commenced operation; and
  - 5.4. 1 July 2010 until 31 March 2010 being the last date that pay reductions were implemented for employees covered by the CMA Corporation Ltd National Contracting Employment Agreement 2007 – 2010,the relevant companies continued to be bound by any continuing collective agreements, which were preserved as agreement-based transitional instruments pursuant to Part 2 of Schedule 3 of the Transitional Act.
6. By failing to comply with the terms of the workplace agreements identified above in paragraph 5, the CMA Companies:
  - 6.1. in the period from 1 July 2009 to 31 March 2010, breached sub-item 2(2) of Schedule 16 of the Transitional Act by contravening terms of the collective agreements which were preserved as agreement-based transitional instruments.
7. At the relevant points in time during 1 July 2009 to 31 March 2010:
  - 7.1. CMA Recycling was bound by CMA Metals Pty Ltd New South Wales Employment Agreement 2006 – 2009 (1 July 2009 until 19 October 2010) as it related to NSW with the exception of one site;

- 7.2. CMA Recycling was bound by CMA Metals Pty Ltd New South Wales Employment Agreement 2006 – 2009 (1 July 2009 until 25 February 2010) (as it relates to one particular site) until such time as the CMA Recycling Pty Ltd (Tomago) Enterprise Agreement 2009-2010 commenced operation on 26 February 2010;
- 7.3. CMA Recycling was bound by the CMA Recycling Pty Ltd (Tomago) Enterprise Agreement 2009-2010 from 26 February 2010 until 1 April 2010;
- 7.4. CMA Assets was bound by the CMA Corporation Limited National Contracting Employment Agreement 2007 – 2010;
- 7.5. CMA Recycling was bound by the following collective agreements:
  - (a) CMA Recycling Pty Limited Employment Agreement (New South Wales) 2009 – 2014 (20 October 2009 – 31 March 2010);
  - (b) CMA Recycling Pty Limited Recycling Queensland Agreement 2007-2010 (Qld) (1 July 2009 until 15 January 2010);
  - (c) CMA Recycling Pty Limited Employee Agreement (Queensland) 2009 – 2014 (16 January 2010 – 31 March 2010);
  - (d) CMA Recycling Pty Ltd Employee Agreement (Tasmania - Rocherlea McLaine) 2009-2014 (20 October 2009 – 31 March 2010);
  - (e) CMA Recycling Pty Limited Employment Agreement (Victoria) 2009 – 2014 (21 October 2009 – 31 March 2010); and
  - (f) CMA Recycling Pty Ltd Employment Agreement (South Australia) 2009-2013 (14 October 2009 – 31 March 2010).

8. During the period:

- 8.1. 1 July 2009 to 19 October 2009 CMA Recycling breached clause 2.4 of the CMA Metals Pty Ltd New South Wales Employment Agreement 2006 – 2009 (collective agreement / agreement-based transitional instrument) by failing to pay 27 employees the prescribed ordinary rates of pay and penalties, as it relates to NSW with the exception of a particular site;
- 8.2. 1 July 2009 to 25 February 2010 CMA Recycling breached clause 2.4 of the CMA Metals Pty Ltd New South Wales Employment Agreement 2006 – 2009 (collective agreement / agreement-based transitional instrument) by failing to pay 15 employees the prescribed ordinary rates of pay and penalties, as it related to a particular site;
- 8.3. 26 February 2010 to 31 March 2010 CMA Recycling breached clause 2.4 of the CMA Recycling Pty Ltd (Tomago) Enterprise Agreement 2009-2010 by failing to pay 15 employees the prescribed ordinary rates of pay and penalties, as it related to a particular site;
- 8.4. 1 July 2009 to 15 January 2010 CMA Recycling breached clause 2.3 of the CMA Corporation Ltd Recycling Queensland Agreement 2007 to 2010 (collective agreement / agreement-based transitional instrument) by failing to pay 12 employees the prescribed rate of pay and penalties;
- 8.5. 1 July 2009 to 31 March 2010 CMA Assets breached clause 2.5 of the CMA Corporation Limited National Contracting Employment Agreement 2007 – 2010 (collective agreement / agreement-based transitional instrument) by failing to pay 16 employees the prescribed ordinary rates of pay and penalties;
- 8.6. 15 October 2009 to 4 March 2010 CMA Recycling breached clause 2.4 of the CMA Recycling Pty Ltd Employee Agreement (Tasmania - Rocherlea McLaine) 2009 – 2013 (collective agreement / agreement-based transitional instrument) by failing to pay 2 employees the prescribed ordinary rates of pay and penalties due to an administrative error (see paragraph 15 of Attachment A of this EU); and

- 8.7. 21 October 2009 to 4 March 2010 CMA Recycling breached clause 2.4 of the CMA Recycling Pty Limited Employment Agreement (Victoria) 2009 – 2014 by failing to pay 1 employee the prescribed ordinary rates of pay and penalties due to an administrative error (see paragraph 15 of Attachment A of this EU).

**Breach of subsection 182(1) of the WR Act – failure to pay basic periodic rate of pay**

9. During the periods 1 June 2009 to 13 October 2009 (for one employee) and 1 June 2009 to 4 March 2010 (for a second employee), the CMA Companies breached subsection 182(1) of the WR Act failing to pay 2 employees a basic periodic rate of pay at least equal to the Australian Pay and Classification Scales (**APCS**) rate derived from the Metals, Engineering and Associated Industries Award 1998 (**Metals APCS**) for each of their guaranteed hours resulting in an underpayment to each of these employees.
10. During the periods 1 June 2009 to 13 October 2009 (for one employee) and 1 June 2009 to 4 March 2010 (for a second employee), the CMA Companies breached Item 5 of Schedule 16 of the Transitional Act by contravening subsection 182(1) of the WR Act by failing to pay 2 employees the basic periodic rate of pay prescribed under the transitional Metals APCS resulting in an underpayment to each of the employees.

## ATTACHMENT "C" (UNDERTAKINGS)

The CMA Companies undertake to:

### *Future workplace relations compliance*

- (a) ensure that each of them comply at all times and in all respects with the FW Act and any industrial instrument, agreement or workplace law which applies to them by developing systems and processes to ensure ongoing compliance with Commonwealth workplace laws.
- (b) provide, within 28 days of the date of this EU, the FWO with details of the implementation of systems and processes designed to ensure ongoing compliance with Commonwealth workplace laws.

### *Apology*

- (c) write and send to all employees (to whom this EU relates) within 28 days of executing this EU, a letter advising them of the EU; including an apology for the underpayment of wages, in the form of Attachment D to this EU, signed by the Chief Financial Officer, Company Secretary and Executive Director of CMA Corporation.

### *Workplace notice*

- (d) issue a memo to all employees of the CMA Companies within Australia, within 28 days of executing this EU, containing the content of Attachment E to this EU signed by the Chief Financial Officer, Company Secretary and Executive Director of CMA Corporation.

### *Public notice*

- (e) cause to be placed on CMA's website under public notices, within 28 days of executing this EU, a communiqué which is in the form of Attachment F to this EU for a period of one month.

### *Preparation of workplace relations compliance manual*

- (f) unless otherwise advised by FWO upon receipt and consideration of any current workplace compliance policy, must commission the preparation, by a suitably qualified legal practitioner with expertise in workplace relations law, of a workplace relations compliance policy for distribution to each of its relevant officers and managers. A copy of the policy must be made available to employees who wish to access it, and CMA Companies must take reasonable steps to ensure employees are aware of its existence and how to access it.

### *Workplace relations compliance programme or training*

- (g) within 3 months of executing this EU, organise and cause all employees with Human Resource or payroll responsibilities at CMA Corporation's Head Office, along with State Managers to attend a quality Workplace Relations compliance programme or training.
- (h) ensure the training course is conducted by a suitable workplace relations trainer who has relevant qualifications and is paid for by CMA Companies.
- (i) provide the training materials used in the training course to the FWO no later than 14 days before the training is to be conducted and ensure that the training materials are approved by the FWO.
- (j) provide evidence of attendance at the training course and payment of the training course to the FWO within 7 days of the training being provided.

*Future reporting to the FWO*

- (k) provide to the FWO within 2 months of the end of the 2011 financial year and again within 2 months of the end of the 2012 financial year (**Reporting Period**), the following information:
  - (i) a list of all award and agreement related employees employed by the CMA Companies during the Reporting Period, including confirmation of what state/territory they are employed; what industrial instrument they were paid in accordance with; their position title and classification under the relevant industrial instrument; and the rate of pay they have received during the Reporting Period.

## ATTACHMENT "D" (LETTER TO EMPLOYEES)

### Failure to pay applicable rates of pay to employees from June 2009

Dear [name]

Further to our letter of [date], informing you that the Fair Work Ombudsman (FWO) had conducted an investigation into matters relating to CMA Corporation Limited and its Related Bodies Corporate and potential underpayment of wages, the FWO has concluded its investigation.

That investigation concerned CMA's request of some of its employees to agree to a reduction of their pays from 1 July 2009 to 31 March 2010.

As you will recall from a number of memorandums issued by former Managing Director of CMA Corporation Limited, Doug Rowe, CMA sought to obtain some employees consent to a reduction in pay in a desperate attempt to prevent substantial job losses caused by the impact of the Global Financial Crisis (GFC) on CMA and the metal recycling and contracting industries more generally.

CMA Corporation has formally admitted to the FWO that it failed to pay a number of staff the correct rates of pay, which it was required to pay under law, as reflected in the Enforceable Undertaking given by CMA to the FWO (available at [www.fwo.gov.au](http://www.fwo.gov.au)).

As you would be aware, during the period March 2010 until October 2010 CMA Corporation made payment to all staff who were affected by the pay reductions and received less than what their collective agreements and agreement-based transitional instruments required.

CMA Corporation apologises to all past and present employees for failing to comply with its lawful obligations. Furthermore, CMA Corporation gives its employees our commitment that the proscribed conduct will not occur again.

CMA thanks our staff for their continued efforts and support during what has been unprecedented times. CMA looks forward to a prosperous future for everyone at CMA.

Yours sincerely

**Chief Financial Officer, Company Secretary and  
Executive Director of CMA Corporation Limited ACN 113 329 016**

## **ATTACHMENT "E" (WORKPLACE NOTICE)**

### **Apology to CMA Corporation staff for breaches of workplace laws during 2009**

As you will recall from a number of memorandums issued by former Managing Director of CMA Corporation Limited Doug Rowe, CMA sought to obtain some employees consent to a reduction in pay in a desperate attempt to prevent substantial job losses caused by the impact of the Global Financial Crisis (**GFC**) on CMA and the metal recycling and contracting industries more generally.

CMA Corporation has formally admitted to the FWO that it failed to pay a number of staff the correct rates of pay, which it was required to pay under law, as reflected in the Enforceable Undertaking given by CMA to the FWO (available at [www.fwo.gov.au](http://www.fwo.gov.au)).

During the period March 2010 until October 2010 CMA Corporation made payment to all award related staff who were affected by the pay reductions and received less than what their collective agreements and agreement-based transitional instruments required.

CMA Corporation apologises to all past and present employees for failing to comply with its lawful obligations. Furthermore, CMA Corporation gives its employees our commitment that the proscribed conduct will not occur again.

CMA thanks our staff for their continued efforts and support during what has been unprecedented times. CMA looks forward to a prosperous future for everyone at CMA.

**Chief Financial Officer, Company Secretary and  
Executive Director of CMA Corporation Limited ACN 113 329 016**

## ATTACHMENT "F" (PUBLIC NOTICE)

During 2009 and 2010 CMA sought to obtain some employees' consent to a reduction in pay in a desperate attempt to prevent substantial job losses arising from the impact caused by the Global Financial Crisis (GFC) on CMA and the metal recycling and contracting industries more generally.

CMA Corporation has formally admitted to the FWO that it failed to pay a number of staff the correct rates of pay, which it was required to pay under law.

CMA fully co-operated with the FWO during its investigation and all award related staff who were affected by the pay reductions and received less than what their collective agreements and agreement-based transitional instruments required have received their back pays.

CMA Corporation apologises to all past and present employees for failing to comply with its lawful obligations. Furthermore, CMA Corporation has given its employees a commitment that the proscribed conduct will not occur again.

CMA thanks our staff for their continued efforts and support during what has been unprecedented times. CMA looks forward to a prosperous future for everyone at CMA.