

**ROYAL COMMISSION INTO
MISCONDUCT IN THE BANKING, SUPERANNUATION AND FINANCIAL
SERVICES INDUSTRY**

SIXTH ROUND OF PUBLIC HEARINGS: LIFE INSURANCE

SUPPLEMENTARY SUBMISSIONS ON BEHALF OF THE TAL GROUP

1. These submissions respond to the Solicitor Assisting the Commission's letter of 12 October 2018, which raised for TAL's consideration the letter sent to the First Insured on 19 September 2018.
2. The most recent letter regarding premium payments sent by TAL to the First Insured prior to the letter dated 19 September 2018 was a letter sent by email on 8 May 2018 (**May Letter**)¹ (as had been acknowledged by Ms van Eeden in her prior evidence²).
3. After discovering that the May Letter had been erroneously sent, TAL's case manager sent to TAL's Operations Services Team (**TAL's OST**) an email seeking an "*urgent explanation*" as to why this letter had been sent to the First Insured.³ She stated that, "*as an employee of TAL, [she] had been making some inquiries in regards to premiums but at no time [had she] asked for anything to be sent to the insured*", and noting that this was an "*extremely sensitive case*".⁴ The "*inquiries*" to which the case manager was referring were contained in her email of 7 May 2018 to TAL's OST asking for the date the First Insured's premiums were currently paid to [i.e. by internal TAL transfer], and requesting a change to the payment method on the First Insured's policy so that an invoice would be sent [rather than a direct debit made] in the event that TAL missed its internal premium transfer by the due date.⁵
4. Subsequently the case manager's superior sent an email to TAL's OST on 10 May 2018, seeking an explanation as to why the May Letter had been sent.⁶ On the same day, TAL's OST responded by apologising to the case manager's superior, and advising that, in error, they had issued a letter to the First Insured, instead of replying to the case manager.⁷ On 11 May 2018, TAL explained to the First Insured that the May Letter had been sent due to an internal administrative error and confirmed that the First Insured did not need to pay any premiums.⁸

¹ TAL.500.057.0017 and TAL.500.057.0020.

² T 5757.15.

³ TAL.500.057.0021.

⁴ TAL.500.057.0021 @ .0021-0022.

⁵ TAL 500.052.2847.

⁶ TAL.500.057.0021.

⁷ TAL 500.057.0021.

⁸ TAL.500.057.0026.

5. From the foregoing it is apparent that the case manager was trying to address a number of concerns. Regrettably, while acting with the best of intentions, the steps taken did not prevent the First Insured from receiving auto-generated notices advising of overdue premiums in the event that TAL missed an internal premium transfer.
6. Subsequent to the May Letter, TAL's case manager sought clarity on when the next internal premium transfer needed to be finalised by TAL, to which she received a final response on 18 May 2018 indicating that the next internal premium transfer was due on 18 September 2018.⁹ Unfortunately, TAL initiated this transfer on 18 September 2018, rather than in advance of that date. This in turn meant that the internal premium transfer was not finalised in time to prevent the notice of 19 September 2018 being automatically sent to the First Insured.
7. On 28 September 2018 at 9:31 am, TAL reaffirmed by email to the First Insured that benefits would continue to be paid until at least February 2019.¹⁰ This confirmed earlier advice provided to the First Insured by email dated 21 September 2018 stating that benefit payments would continue until at least February 2019.¹¹
8. On 28 September 2018 at 10:56 am, the First Insured advised Ms van Eeden that she had received the letter dated 19 September 2018.¹² Ms van Eeden promptly apologised to the First Insured on the same day.¹³ Moreover, and also on the same day, TAL took immediate additional steps to prevent any auto-generated letters being sent to the First Insured.¹⁴ This position has been further confirmed in emails internally within TAL on both 3 and 4 October 2018.¹⁵
9. Accordingly, the steps taken by TAL do not reflect a reckless or careless disregard for the First Insured's circumstances. Moreover, and as stated, the case manager acted with the best of intentions, mindful of the First Insured's circumstances, and as such TAL did not breach its duty of utmost good faith.¹⁶ However, given the seriousness of the matter and the potential impact on the First Insured, TAL accepts that its failure to correct this matter until after 28 September 2018 fell below community standards and expectations.

Dated: 24 October 2018

N. J. Beaumont SC
A. J. Macauley

⁹ TAL.500.052.2960, TAL.500.057.0686 and TAL.500.057.0036.

¹⁰ TAL.500.081.0004.

¹¹ TAL.500.081.0004 @ .0005.

¹² TAL.500.080.0031 and TAL.500.080.0032.

¹³ TAL.500.080.0030 and TAL.500.080.0027.

¹⁴ TAL.500.080.0008 @ .0008-0009.

¹⁵ TAL.500.081.0007.

¹⁶ See *CGU Insurance Ltd v AMP Financial Planning Pty Ltd* (2007) 235 CLR 1 at [15] per Gleeson CJ and Crennan J and at [257] per Callinan and Heydon JJ; *Kelly v New Zealand Insurance Co Ltd* (1996) 130 FLR 97 at 112 per Owen J (Kennedy and Steytler JJ agreeing); *Speno Rail Maintenance Australia Pty Ltd v Metals & Minerals Insurance Pte Ltd* (2009) 253 ALR 364 at [154] per Beech AJA; *Fogarty v CGU Insurance Ltd* [2015] ACTSC 44 at [62]-[65] per Murrell CJ.