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24 May 2023

Justice Hatcher, President
Fair Work Commission
80 William Street
East Sydney NSW 2011

By email: chambers.hatcher.j@fwc.gov.au

Dear Justice Hatcher,

Re. C2023/1 Annual Wage Review 2022-23 – Copied State Awards – The Nurses’ (Department of Family and Community Services – Ageing, Disability and Home Care) (State) Award 2017

We refer to the above matter and proceedings before the Fair Work Commission on 17 May 2023. During those proceedings, the Australian Nursing and Midwifery Foundation submitted that the following employers are covered by copied State awards that are derived from the *Nurses’ (Department of Family and Community Services - Ageing, Disability and Home Care) (State) Award 2017 (CSA)*.

- (a) Life Without Barriers (**LWB**); and
- (b) LiveBetter.¹

Since the proceedings, the aforementioned employers have advised the Australian Industry Group that they are no longer covered by the relevant CSAs, for the reasons that follow:

- (a) The ‘*transfer of business*’ that resulted in the CSA covering LWB occurred in February 2018. By virtue of s.768AO(2) of the *Fair Work Act 2009*, it ceased to apply in February 2023. In addition, from 26 May 2023, LWB and the relevant employees will be covered by an enterprise agreement (i.e. the *Life Without Barriers Transferred NSW Government Nurses Enterprise Agreement 2023 (AE520071)*).
- (b) None of the relevant ‘*transferring employees*’ remain employed by LiveBetter. The CSA therefore no longer has any application.

Yours sincerely,

Ruchi Bhatt
Principal Advocate

¹ Transcript of proceedings on 17 May 2023 at PN24.