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HR Market News

**Wheeler
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Market Insights

In this issue of our ezine we are delighted to confirm Sandy Sergeant as a permanent member of the HR Recruitment Team. Some of you might be aware that Sandy came to us initially on a short term contract through to the end of 2011. She is having such a great time that she has agreed to stay with us permanently. We are thrilled to have her, and she has enjoyed meeting and re-connecting with many of you in the last four weeks.

In this edition, we also bid farewell to Alyshia Winnie. Many of you will have dealt with Alyshia in the last 18 months that she has supported us in the HR team, and I'm sure you'll join us in wishing her all the best for the next phase of her career. Alyshia has made an enormous contribution to Wheeler Campbell and has been a delight to work with. Our philosophy is that the ideal 'lifespan' for our Recruitment Associate position is about 18 months. This enables people in the role to learn and develop, while sustaining their enthusiasm for the work, leaving them equipped to pursue a new challenge. Alyshia leaves us to take up an exciting opportunity with Statistics New Zealand and today is her final day with us.

Our most recent export to the United States has been in close contact since arriving in New York last week. Achievements to date include purchasing multiple Apple devices, mastering the subway system and succeeding in the quest for a decent coffee (which, for those who are interested, was found at Stumptown Coffee Roasters in Manhattan). Lynda is having a fantastic time, although she is finding it a challenge being separated from the Wellington HR network's 'grapevine' and everyone's news!

In our last ezine we talked about how the end of the financial year had impacted on the HR contracting market. The brakes have come off this space in just the last week or so, with a slight lift in demand for experienced contractors, with change programmes continuing to dominate the public sector landscape. The permanent market remains steady, and my schedule of work retains features that have been consistent since the beginning of the year; I am working on a diverse scattering of roles across levels, sectors of the market and areas of the discipline. It will be interesting to observe whether the General Election impacts on the recruitment market this year as it has in the past, or whether the heavy demands on various HR teams right across town will mean carrying vacancies is simply not an option.

Employment Law Update

BUDDLE FINDLAY

Mile high food fights

PRI Flight Catering's recent loss of its Singapore Airlines' catering contract to LSG Sky Chefs has spawned litigation on the effect of the "vulnerable" employee business transfer provisions of Part 6A of the ERA. There have been limited cases under Part 6A since its introduction, but each new case has amplified its provisions. This has importance where Part 6A is frequently ignored or only paid "lip-service" in many business transfer situations.

In the first case, LSG asked the High Court to order PRI to properly comply with its obligation to notify affected employees of their right to transfer to LSG. When PRI was informally told it had lost the contract, it restructured its workforce, and only notified those employees who were not successful in securing jobs. LSG said that PRI was effectively "sifting" its employees and leaving the "tailings" for LSG. PRI said its employees were not assigned to one particular airline, and therefore it was unclear who should be notified. However, LSG's case failed because the Court rejected its argument that PRI owed it a duty of care to comply with Part 6A, and was negligent in doing so (we consider there might have been a different result if LSG had brought its case in the Employment

Relations Authority).

In the second case, Mr Matsuoka sought to make LSG comply with its obligation to employ him after he elected to transfer from PRI. Despite undertaking ground steward duties, LSG said he was not a "vulnerable" employee as he had personal connections with management and reported to PRI's Managing Director, and received generous terms and conditions. However, the Employment Court held that Mr Matsuoka was entitled to transfer. Whether he was "vulnerable" or not was not part of the test. The relevant test was whether he provided catering services, which he did.

There was obviously no love lost between PRI and LSG. But the cases highlight the need for companies to talk to each other about the implications of Part 6A, including their expectations and plans, in order to ensure a smooth transition, and time to work through any issues.

For more information please contact Peter Chemis in Buddle Findlay's Wellington office on 04 498 7339 or Sherridan Cook in Buddle Findlay's Auckland office on 09 357 1858 or visit www.buddlefindlay.com

To have a further discussion about anything in this newsletter, to share suggestions or for a general chat about anything HR please feel free to contact any of us in the Wheeler Campbell HR team. We would love to hear from you.

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