

# ROYAL COMMISSION INTO TRADE UNION GOVERNANCE AND CORRUPTION

## SUBMISSIONS OF COUNSEL ASSISTING

### AWU: CHAPTER 1

#### INTRODUCTION

1. The following submissions address a number of case studies concerning the Australian Workers' Union (AWU), namely:
  - (a) Cleanevent, which includes consideration of Douglas Site Services;
  - (b) Thiess John Holland;
  - (c) Two case studies involving paid education leave, namely ACI and Chiquita Mushrooms;
  - (d) Unibuilt;
  - (e) Winslow and miscellaneous membership issues; and
  - (f) Downer EDI.

#### **A THE APPROACH TAKEN IN THESE SUBMISSIONS**

2. Before turning to a number of the common themes raised by these case studies, it will be helpful to make a number of introductory points.

3. To begin with, it should be emphasised that what follows are submissions only. Any person affected by these submissions has the right to respond, to identify what the person contends are the flaws in the reasoning and to urge a different approach.
4. Since these are submissions, they do not contain any recommendations. Any recommendations will be made by the Commissioner in his Report. That will only occur after the Commissioner has received submissions from all parties and considered all competing points of view.
5. Next, something should be said about the reasoning process in these submissions. As has been the case at other times in this Commission, for the most part counsel assisting have sought to rely upon the contemporaneous documents and the objective logic of events, rather than on the recollections of persons called to give evidence in public hearings.
6. This is not intended as any disrespect to any of the many witnesses who gave oral evidence. Far from it. For the most part those witnesses did their best in good faith to recall events which in some cases occurred more than a decade ago. Often the oral evidence was of great assistance in understanding the background.
7. However at the end of the day a fact finding process relating to long ago events is more assisted by the documentary evidence and the objective logic of events than by oral testimony given years later.
8. This reflects the simple reality that memories are fallible. With the best will in the world it is not always possible after a long time to recall with precision what occurred or what was said.
9. In particular, even if a witness can recollect the broad thrust of conversations or events, he or she is unlikely to be able to recollect with precision the detail, nuance and context of those conversations or events – yet detail, nuance and context may be critical.

10. Concentration on the contemporaneous documents and the objective logic of events has many advantages. It is consistent with authority.<sup>1</sup> It is more reliable, in that it does not treat current recollections as determinative. And it better exposes the reasoning process, so that those reading the submissions should be able to scrutinise that process and either accept the reasoning, or reject it.
11. In some instances there have been exceptions. For example, the law generally treats admissions against interest as having considerable weight. If a witness gives evidence that is contrary to the witness's own interest it may be inferred that the witness has a good recollection of those matters. Thus in a number of instances in what follows it has been submitted that oral evidence in the form of admissions against interest may be accepted.
12. The discussion in this Introduction of the Thiess John Holland case study (see Section D below) provides an illustration of this approach to the evidence and the reasoning process, in connection with an invoice for advertising in the Australian Worker magazine (see paragraphs [55] – [62] below).

## **B THREE COMMON THEMES: SECRET PAYMENTS, BOGUS INVOICES AND INFLATED MEMBERSHIP**

13. Each of the case studies involves different issues and different periods of time. On the other hand, there are at least three common themes.
14. *First*, many of the case studies involve arrangements pursuant to which employers paid sums of money to the AWU directly.
15. The precise contractual basis for these payments is generally unclear. The contracts (if there were contracts) were not reduced to writing. The reasons for the payments were often described in vague terms: service fees, paid education leave, or membership dues. The arrangements were not disclosed to the members of the AWU.
16. At one point during his examination Mr Ben Davis the current secretary of the Victorian Branch of the AWU frankly stated that he was not in favour of employees paying

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<sup>1</sup> *Fox v Percy* (2003) 214 CLR 118 at [31].

membership dues on behalf of members because it ‘profoundly weakens’ the union’s position.<sup>2</sup>

17. One of the vices in the arrangements mentioned above is that they also profoundly weakened the union’s position. They were entered into in many cases during the course of bargaining for enterprise agreements. The fact that a union has entered into an undisclosed arrangement during that bargaining process pursuant to which it receives significant sums from an employer is likely to inhibit the ability of the union vigorously to defend and prosecute its members’ interests in relation to that employer.
18. *Secondly*, the next common theme among many of the case studies is the falsification of documents, and in particular the issuing and payment of false invoices.
19. One example of this has already been noted, namely the issuing of a bogus invoice for advertising in the Thiess John Holland as discussed below (see paragraphs [55] – [62] below).
20. A series of false invoices were also sent in the Winslow case study. These were admitted to be false invoices by representatives of Winslow. In any event the position is clear from some internal communications produced by the AWU. For example on 21 January 2010 Angela Leo sent an email to Mei Lin with a subject heading ‘Invoice to Winslow’ stating:

Can you please organise an invoice for Winslow as per Cesar’ request below. This is to be sent to Peter Smoljko and a copy scanned to Cesar.

The amount is to be for: \$45,396.00 being 12 months’ membership for 97 members. Invoice is to be made out for Training/Red Card/OHS etc not Membership.

When money comes in, it will be divided evenly against all members at Winslow as membership payments.
21. This email could not be any clearer. An invoice was issued to recover payment for purported membership fees for 97 employees of Winslow. But the invoice on its face was to be made out for ‘*Training/Red Card/OHS etc*’. It was a false invoice.

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<sup>2</sup> Ben Davis, 4/6/15, T:626.2-4.

22. *Thirdly*, a number of the arrangements involve payment for ‘membership fees’ in circumstances in which those payments did not always or necessarily reflect actual members.
23. The Cleanevent case study is one of the clearest examples of this. Part of the arrangement pursuant to which \$25,000 per year from 2010 was paid by Cleanevent to the AWU involved the provision of lists of member names. However a number of persons on that list were called to give evidence in the Commission. They did not know that their names had been supplied to the AWU. They did not know that they had purportedly become ‘members’ of the AWU Vic. In some cases they were members of other branches of the AWU.
24. The Cleanevent case study and the Hunter Douglas case study also involve circumstances in which it was at least contemplated that an ‘opt out’ arrangement would be entered into. This is an arrangement pursuant to which casual workers applying for a position with the firm were required to tick a box indicating that they did not wish to join the union; otherwise they would automatically become members.
25. It will be helpful to summarise briefly some of the main points covered by each of the case studies. Plainly what follows in this introductory chapter is not intended to be exhaustive.

## **C      CLEANEVENT CASE STUDY**

26. The Cleanevent case study is rich in issues. It includes consideration of Douglas Site Services.
27. Cleanevent was at all material times was part of a large business providing cleaning services across Australia, including, as its name suggests, at major sporting and other events. It had some permanent employees but the bulk of its workers were casuals. The casuals did the actual cleaning. Inevitably, when cleaning up after sporting and other events, these casual cleaners worked long hours on weekends, at night and on public holidays. Under the relevant awards they should have been paid penalty rates.

28. The starting point is that in 2004 the AWU and Cleanevent entered into an EBA which failed to make provision for penalty rates consistently with the relevant award, being the *Cleaning Industry – AWU/LHMU – Cleanevent Pty Ltd Award 1999 (the 1999 Award)*.
29. When asked about this Bill Shorten described the notion that event cleaners were being paid award penalty rates as ‘fanciful in the real world.’<sup>3</sup>
30. There is little evidence that other employers in the industry were paying less than award rates, although of course that is always possible. However there is some evidence that Cleanevent’s competitors at least were paying award rates. For example, Cleanevent’s general manager, human resources, described Cleanevent’s not having to pay penalty rates as a “massive competitive advantage”.<sup>4</sup> Indeed in his witness statement he deposed that: “the beneficial casual pay rates and overall agreement terms were very attractive to Spotless and one of the reasons it acquired the Clean Event business in 2010”.<sup>5</sup> Steven Hunter also gave evidence concerning the difficulty Douglas Site Services had in competing with Cleanevent by reason of having to pay penalty rates.
31. In any event, and whatever was happening with other employers, the fact is that in 1999 the AWU, the LHMU and Cleanevent had entered into and publicly promulgated a consent award which provided for the payment of penalty rates. The approach by the AWU in 2004 was to disregard the 1999 Award, at least in respect of penalty rates. If the AWU and Cleanevent were of the view that the 1999 Award had become ‘fanciful’ they could have applied to have had it varied or replaced.
32. Further, as submitted below, other employers would have been regulated by other awards, including State awards which also made provision for penalty rates. If these other awards were being flouted by rogue employers another option would have been for the AWU to take steps to ensure that that practice ceased and workers were no longer ripped off.
33. Another option might have been to insist that Cleanevent take steps to absorb the cost of paying penalty rates, even at the expense of some of its profit.

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<sup>3</sup> Bill Shorten, 8/7/15, T:82.1-8.

<sup>4</sup> Cleanevent MFI-1, 19/10/15, p 56; and see to similar effect Cleanevent MFI-1, 19/10/15, p 312.

<sup>5</sup> Michael Robinson, witness statement, 21/5/15, para 17.

34. The AWU did none of these things. Rather, the approach that was in fact taken seems to have been in effect to ignore the 1999 Award and leave the casual workers to bear the economic burden.
35. To make matters worse, when the time came to have the 2004 EBA certified officers at the AWU failed to disclose to the AIRC the terms of the 2004 EBA that they knew or should have known were less advantageous to casual workers than the 1999 Award.
36. Next, in 2006 the AWU and Cleanevent entered into an enterprise bargaining agreement which came into force on 22 December 2006 (**the 2006 EBA**). The 2006 EBA was made under Part 8 of the *Workplace Relations Act 1996* (Cth). In other words the Workchoices regime was in force. Therefore the 2006 EBA was not required to pass a “no disadvantage” test as between it and the 1999 Award.
37. In approximately 2010 the AWU and Cleanevent entered into negotiations with respect to a replacement for the 2006 EBA. Had a replacement EBA been agreed upon, it would have been necessary for that instrument to be approved by the Fair Work Commission. The Fair Work Commission could not have approved a new EBA unless satisfied that it passed the “better off overall” test under the *Fair Work Act 2009* (Cth).
38. That would appear to be the reason that Cleanevent and the AWU did not, ultimately, enter into a replacement EBA. Instead, they reached an arrangement pursuant to which the 2006 Workchoices arrangement was continued. The arrangement had two parts.
39. First, on or about 12 November 2010 AWU and Cleanevent entered into a memorandum of understanding (**MOU**), pursuant to which the 2006 EBA would continue to apply in relation to all employees covered by the 2006 EBA, except as modified by the MOU.
40. At the same time, Cleanevent agreed to pay the AWU \$25,000 per year for what were described as ‘membership fees’. As part or in performance of this separate agreement Cleanevent supplied lists of names of cleaners to the AWU.
41. These persons were then entered upon the membership roll of the AWU Vic. However, as noted above, they knew nothing of this.

42. The obvious benefit to Cleanevent from these arrangements was that by paying \$25,000 it saved a great deal of money it would otherwise have paid its employees, especially by way of penalty rates. These benefits were graphically described in their internal deliberations. Thus for example on 17 May 2010 Michael Robinson sent an email to Julianne Page comparing the 1999 Award (also known as the Consent Award) with the MOU in which he observed that at that time (namely, 2010):<sup>6</sup>

All up the difference for event casuals is about \$420K and for venue casuals about \$1.2M.

43. Mr Robinson said later in the same email:

For a saving of \$1.5M we could make a donation of \$20K to the union in some way shape or form (tables at the AWU ball, paying our level 3 casuals membership etc) and this would get over the line.

44. In an email of 27 May 2010 Michael Robinson remarked:<sup>7</sup>

Even if we agree to pay all memberships after 6 months then we would have saved that \$20K thirty fold in wages by then.

45. Some two years later Steven Webber, the general manager of operations sent to the group general manager an email dated 25 June 2012 in which he stated:<sup>8</sup>

The implication to the business by not having the EBA and employing labour through the modern Award is circa \$2Mill per annum. We are about to enter our third and final year of this agreement to which we will need to start discussing how we can continue this.

46. The benefit to the AWU was that it received \$25,000 a year in revenue and inflated membership numbers, the latter adding to its influence and prestige. Consequently, AWU officials actively assisted Cleanevent to prolong the effect of the 2006 EBA.

47. The people who missed out were the unfortunate casual workers.

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<sup>6</sup> Cleanevent MFI-1, 19/10/15, pp 55-60.

<sup>7</sup> Cleanevent MFI-1, 19/10/15, p 175.

<sup>8</sup> SW1, 28/5/15, p 120.

**D THIESS JOHN HOLLAND**

48. This case study examines an agreement entered into between the AWU and the joint venture responsible for construction of the Eastlink Project pursuant to which the joint venture paid the AWU a sum of \$100,000 a year for the three year life of the project.

A concluded agreement

49. The contemporaneous documents including correspondence, invoices, ledgers and financial records make it clear that the agreement was entered into. To take some of those documents:
- (a) A handwritten table apparently prepared by someone at the joint venture contemplates three years of annual payments yielding a total of \$300,000.<sup>9</sup> The payments include three payments for ‘research grants’. The grant for year one is described as ‘attracting employees to civil construction industry’. It is thereby reasonable to infer that this document was created during 2005 and well before 18 January 2006, the date on which an invoice was issued for ‘research work done on Back Strain in Civil Construction Industry’.<sup>10</sup>
  - (b) A handwritten table in Cesar Melhem’s handwriting records what appears to have been three annual instalments of \$100,000, with payments made to a date prior to 30 June 2006.<sup>11</sup>
  - (c) On 16 April 2007 Julian Rzesniowiecki wrote to Cesar Melhem dealing with various invoices that had already been submitted and stating amongst other things, ‘if we don’t reach the **agreed sum** we can address at end of year’ (emphasis added). Plainly a sum had been agreed as between the joint venture and the AWU. There is no correspondence coming back from the AWU questioning or denying that an agreement had been reached.<sup>12</sup>

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<sup>9</sup> Shorten MFI-9, 9/7/15, p 236.

<sup>10</sup> Shorten MFI-9, 9/7/15, p 186.

<sup>11</sup> Shorten MFI-9, 9/7/15, p 226.

<sup>12</sup> Shorten MFI-9, 9/7/15, p 222.

- (d) An email from Julian Rzesniowiecki to Cesar Melhem dated 31 March 2008 begins by stating ‘on our breakdown the **agreed amount** is \$110,000 inc GST’ (emphasis added).<sup>13</sup> Again, the AWU did not respond questioning whether there was an agreement.
- (e) This email is also significant in other ways. First, it notes in respect of payment for red card training that ‘red card otherwise would have cost us nothing because John Holland run it’. Plainly the joint venture was contemplating paying for training which ‘otherwise would have cost us nothing’. It is difficult to see any legitimate basis for doing this. Secondly, the email concludes: ‘therefore we believe that the outstanding amount is \$15,416.50 inc GST’. The reference to an ‘outstanding amount’ can only mean the amount still owing or outstanding after the payments set out the invoice have been deducted from the \$100,000 plus GST which the joint venture had agreed to pay annually.

50. The detail as to how the arrangement was negotiated and by whom is discussed below.

#### Bogus invoices

51. It is also clear that part of the arrangement included the issuing and payment of invoices that added up to \$100,000 a year. Some of the invoices were for services genuinely rendered, however a number of these invoices are demonstrably bogus.
52. It will be helpful to examine one such bogus invoice in detail. Take tax invoice 016248 dated 18 September 2006 and addressed to the joint venture for ‘Advertising in the ‘Australian Worker’ Magazine for \$33,000’ (**the Advertising invoice**).<sup>14</sup>
53. The genesis of the Advertising invoice was that on 12 September 2006 Cesar Melhem sent an email to Julian Rzesniowiecki listing four invoices in the total amount of \$100,000.<sup>15</sup> One of the suggested invoices was “Australian Worker 4 @ 7500 =

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<sup>13</sup> Shorten MFI-9, 9/7/15, p 231.

<sup>14</sup> Shorten MFI-9, 9/7/15, p 207.

<sup>15</sup> Shorten MFI-9, 9/7/15, p 202.

\$30,000". It should be noted that a full page advertisement in the Australian Worker at the time cost employers \$5,000, not \$7,500.

54. Julian Rzesniowiecki responded to Cesar Melhem by email dated 13 September 2006 inviting among other things that an invoice for advertising be sent.<sup>16</sup> The Advertising invoice was then sent, and in due course paid by the joint venture.
55. The following five matters establish that the Advertising invoice was bogus.
56. *First*, every copy of the Australian Worker magazine from the outset of the Eastlink project up to 2007 was in evidence. A number of issues included advertisements for the joint venture or John Holland. Every such advertisement was the subject of an invoice from the National Office of the AWU.<sup>17</sup> There were simply no other advertisements which could have been the subject of the Advertising invoice, let alone four, or six, such advertisements.
57. *Secondly*, the Advertising invoice was issued by the Victorian branch of the AWU (**AWU Vic**). But the publisher of the Australian Worker was the National Office. There is no legitimate basis for an entity which is not the publisher of the journal issuing invoices, and being paid, for advertising in the journal (especially when, as just noted, the publisher had already issued invoices and been paid for all such advertising).
58. The issuing of the Advertising invoice by the AWU Vic was not inadvertent. Originally the National office sent an invoice for this advertising, but this was quite deliberately changed and the Advertising invoice then issued.
59. *Thirdly*, the description in the Advertising invoice of the service for which a charge was levied did not specify the issue of the Australian Worker in which the purported advertisements appeared. All the other invoices issued by the National Office for advertising did. This supports the proposition that the invoice was not for any genuine advertisement.

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<sup>16</sup> Shorten MFI-9, 9/7/15, p 201.

<sup>17</sup> With one exception: but this advertisement was covered by a separate invoice issued by the AWU Vic Branch, payment for which was transferred to the National Office.

60. *Fourthly*, the revenue generated by the Advertising invoice was not treated as advertising income in the ledgers of the AWU Vic.

61. *Fifthly*, Julian Rzesniowiecki gave the following evidence in respect of the Advertising invoice:<sup>18</sup>

Q. You didn't have \$33,000 worth of advertising in the magazine, did you?

A. No.

Q. So it's a false invoice?

A. Well, it's an inflated price for that, yes.

Q. When you say, "Yes", you're agreeing with me it's a false invoice?

A. Well, I mean there was an agreement between the Union and ourselves that we would provide services and – or that they would provide services, we would provide money and that, you know, we wouldn't be open about what was in the invoices. So the party issuing the invoice and the party paying it were happy with the arrangement, so when you say "a false invoice", I'm not sure what you're suggesting but it was – the purpose was to disguise what it was for, yes.

62. An invoice which was drafted in such a way as to disguise what its real purpose was, and which claimed \$33,000 worth of advertising when no such advertising had been published, is a false invoice. The above evidence of Julian Rzesniowiecki is an example of relying on oral evidence against interest, and therefore to be given weight.

## **E PAID EDUCATION LEAVE**

63. Chapter 4 looks at paid education leave in general terms.

### ACI case study

64. Chapter 5 examines the ACI case study. This involves three payments of about \$160,000 inclusive of GST each paid by ACI to the AWU between 2003 and 2005.

65. The invoices issued by the AWU for those amounts described the payments as being for 'paid education leave.' The arrangement seems to have been negotiated between Cesar

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<sup>18</sup> Rzesniowiecki MFI-1, 13/10/15, T:19.46–20.16.

Melhem for the AWU Vic and Mike Gilhome for ACI in the period leading up to the *ACI Glass Packaging Melbourne Glass Workers Certified Agreement 2003 (2003 EBA)*, but the 2003 EBA included a provision for paid education leave that was completely different from that which was invoiced and paid.

66. ACI was not under any contractual or other obligation to pay the AWU Vic nearly half a million dollars over three years in paid education leave, whether under the 2003 EBA or otherwise.
67. The 2004 and 2005 invoices included a formula purportedly calculating the quantum of the paid education leave payable, although the former CEO of ACI, whose evidence was to the effect that he had only recently become aware of the payments, described this as a “nonsense formula”.<sup>19</sup>
68. Further the 2004 and 2005 invoices were paid by ACI and the money deposited into the AWU Vic’s Long Service Leave account.<sup>20</sup>
69. From there, monies in the long service leave account were used to discharge part of the indebtedness of the National Office to Members Equity Bank, and ultimately treated as loans by AWU Vic to National Office.<sup>21</sup> The loan from Members’ Equity Bank, it appears, was made in connection with renovations to the premises occupied by the Victorian Branch at Spencer Street, Melbourne. The accounts of AWU Vic and National do not record any repayments of the loan from the Victorian branch since November 2005. The balance of the loan accounts as between the two entities has remained constant since financial year 2006-2007.
70. There is no difficulty with using surplus funds to reduce interest commitments. Rather, the difficulty with all this is as follows. If the funds received by the AWU Vic from ACI were in fact supposed to be ear-marked in some way to be used for particular purposes, namely education or training of some kind, then it is not apparent why they were in fact deployed for extraneous purposes. If, on the other hand, the funds were not supposed to be ear-marked for use in any particular way, and could simply be used in

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<sup>19</sup> Peter Robinson, 14/10/2015, T:329.33-35.

<sup>20</sup> Shorten MFI-12, 9/7/15, pp 312-313.

<sup>21</sup> Robinson MFI-2, 14/10/15, pp 107, 120.

any way the AWU Vic chose, then it is meaningless – or even misleading – to describe them as being ‘for’ ‘paid education’.

71. Also considered in the ACI case study are five payments paid by ACI to the AWU in the amount of \$5,400 inclusive of GST each between 2008 and 2012. The payments were made pursuant to invoices described as being for ‘12 Membership Yearly fees’.
72. It seems clear that the invoices were false in that they purported to seek payment of membership fees. Mr Melhem’s evidence was that in fact the invoices were for “paid education leave” – however there was no clear explanation given for how the amount for paid education leave apparently payable by ACI shifted from \$160,000 per year to \$5,400 per year, nor how the amount of \$5,400 was calculated.

#### Chiquita Mushrooms case study

73. Chapter 6 examines the Chiquita Mushrooms case study.
74. This case study concerns six payments of \$4,000 made by Chiquita Mushrooms Pty Ltd (**Chiquita**) to the AWU in 2003-2004. The payments were made pursuant to invoices that were described as being for ‘paid education’. The payments were made during a period in which Chiquita and the AWU Vic were engaged in negotiations for an enterprise agreement.
75. A number of former workers at Chiquita Mushrooms gave evidence. It is submitted below that the *Chiquita Mushrooms (Pickers) AWU Enterprise Agreement 2004* (**2004 EBA**) left most Chiquita employees worse off financially than they had been under the previous EBA. In broad terms, this was due to two features of the 2004 EBA. First, it permitted Chiquita to decrease the number of workers employed by it and increase the number of workers employed by labour hire companies. Secondly, it permitted those labour hire workers to be paid less than Chiquita employees, and in some instances less than such employees were paid under the previous EBA.

#### **A. UNIBUILT**

76. This case study examined the circumstances in which certain employees were hired to work on Bill Shorten's campaign in the 2007 Federal election. Bill Shorten was at that time the National Secretary of the AWU, although he had ceased to be the State Secretary of AWU Vic.
77. Among other things documents were created describing Mr Wilson as being employed as a "research officer" for Unibuilt when he was not. No witness could give any or sufficient explanation as why this was thought necessary or desirable.

## **F WINSLOW CONSTRUCTORS AND OTHER MEMBERSHIP ISSUES**

78. Since the mid-1990s, Winslow Constructors Pty Ltd and the AWU had an arrangement whereby Winslow paid to the AWU, membership fees for all of Winslow's employees of more than one year's standing. The arrangement resulted in false invoicing, inflation of AWU membership numbers and Winslow obtaining favourable treatment from the AWU in relation to at least one of Winslow's competitors.
79. A separate chapter deals with similar arrangements entered into by the AWU Vic with BMD Constructions, the Australian Netball Association, the Australian Jockeys' Association, Geotechnical Engineering Pty Ltd and AJ Lucas Pty Ltd, and includes an examination of the circumstances in which persons associated with or employed by these entities were added to the AWU Vic membership roll.

## **G DOWNER**

80. This case study concerns the payment by Downer EDI Engineering Power Pty Ltd (**Downer EDI**) of an invoice issued by the AWU Vic in October 2012. The invoice was for \$25,000 plus GST and was described as being for 'Occupational Health and Safety Training for 8 delegates and 8 OH&S representatives for 5 days on the Yolla project.'<sup>22</sup> The invoice, for the reasons set out below, was false. In fact Downer had agreed to make the payment in August 2012 for the purposes of putting an end to a picket that was interrupting work performed by Downer.

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<sup>22</sup> Anthony Sirsen, witness statement, 2/6/15, para 44.

## **H CONCLUSIONS**

81. It is important to emphasise that it is not suggested in these submissions that any official of the AWU personally profited from the above arrangements.
82. Nevertheless, the submissions are to the effect that the AWU Vic itself, and a number of officials, may have committed offences. Likewise a number of employers, and individual officers of those employers, may have committed offences.
83. In broad terms there are at least two categories of possible offences.
84. *First*, falsification of accounting records and in particular invoices. Examples of apparently falsified invoices have already been given above.
85. *Secondly*, it is alleged that the AWU Vic and certain employers, and those AWU Vic officials or individuals who actually facilitated or procured, or paid, certain sums pursuant to the above arrangements, may have received or solicited the payment of secret commissions.
86. The detail of the above possible offences is set out in the various case studies.
87. It is also submitted below that officials at the AWU Vic may have engaged in conduct giving rise to an actual or possible conflict of interest, by negotiating side deals beneficial to the union while engaged in negotiations for enterprise agreements on behalf of the members.