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**The Secretary of the Committee
Standing Committee on Employment and Workplace Relations
Parliament of Australia
House of Representatives
Canberra
ACT 2600**

Submission - re Inquiry into aspects of Australian Worker's Compensation Scheme

We are submitting the following as employers who have experienced the workers compensation legislation. The main areas we are addressing are:-

The incidence and costs of fraudulent claims and fraudulent conduct by employees and structural factors that encourage such behaviour.

The methods used by workers compensation schemes to detect and eliminate fraudulent claims.

The adequacy , appropriateness and practicability of rehabilitation programmes and their benefits.

Our business is small we employ 6-4 casual employees . We work long hours ourselves and have been dismayed at events we have experienced through the workers compensation scheme. A brief summary follows.

On November 25 1997 an employee sat on a chair at approximately 5pm and claimed she incurred severe pain. She completed her shift and drove herself home.

The following day her husband notified us he had taken her to hospital due to a return of a previous back condition.

We visited the employee several times in hospital and at no time was workers compensation mentioned.

Some three to four week's later papers arrived from a back specialist indicating workers compensation.

Although there was medical evidence available to suggest the employee already had a "back condition" The specialist and the General Practitioner dismissed previous medical history as irrelevant and stated categorically the worker's current condition was a result of her sitting down in a chair while she was at work. The words used by the specialist were " it could not have happen at any other time or place."

Some six months later liability was accepted by our insurers GIO Australia.

We were dismayed at this news as the employee had not contacted us and had been seen on numerous occasions participating in what appeared to be a normal lifestyle. Our insurance company had not contacted us during this period.

A lump sum was paid to the worker back dated to the date of the supposed incident. Under duress

we as the employer proceeded to pay the worker weekly payments which was then refunded to us by our insurer. As the claim proceeded we found it impossible to continue weekly payments and the insurance company advised they would pay us so payment could be made to the worker on time. However this resulted in delays and the worker made several complaints to Conciliation and Review in regards to lack of payment. The worker was fully aware of the circumstances regarding payment. The worker did not present medical certificates to us and even though we were advised from the insurance company not to pay unless a certificate was presented the worker complained in this respect to Conciliation and Review.

Country Injury Management advised us the worker would complete rehabilitation and re-training and they expected the claim to conclude in six months. We were also advised the worker would be monitored and expected to produce medical certificates etc if they were unable to attend re-training. Conciliation and Review also told us the worker would be expected to attend re-rehabilitation/re-training and there would be consequences to the worker if they did not.

Some two years later the worker had not completed re-habilitation - they had not kept appointments with their liaison officer - they had several sick days without a medical certificate. They had obtained a back dated medical certificate from their doctor when so advised from their liaison officer.

The management of this claim was handed down to several liaison officers resulting in a lack of consistency and supervision.

We questioned Conciliation and Review function and title on many occasions as we found them to be totally biased and supportive of the worker. At no time was any pressure put on the worker to complete rehabilitation or do anything, which would result in a conclusion to the claim.

The booklet, which we received from Conciliation/Review - Work Cover repeats often an employee on compensation MAY conform to certain guidelines, but the employer MUST conform. This clearly sends a message to the employee that there is no pressure to adhere to the guidelines and encourages unscrupulous behavior if the employee is so inclined

We wrote and contacted many organizations throughout Australia for some support but was told the workers compensation legislation was too powerful and any effort to reverse or consider what had happened would be unsuccessful.

This contact also included our insurance company who we supplied with what we considered more than sufficient evidence the worker had resumed a normal lifestyle and did have a previous back condition prior to the supposed incident. Their response was the legislation was such the evidence would not stand up in court and it was cheaper and less fuss for them the insurers to accept the claim make payments and eventually pay the worker out.

In May 2000 the insurers and the worker's solicitors negotiated a settlement and the claim was paid out. At a later date the worker contacted Conciliation and Review yet again claiming they had not been paid several weeks to the conclusion of the claim. We challenged this statement requiring more evidence other than a set of statistics the worker had put together. This resulted in the involvement of Work Cover who we have found to be totally inefficient and incompetent. We were asked to produce payment records for the worker for the period of time stated which we did. We were told it was a straightforward procedure and the issue would conclude if no payments were found to be outstanding.

The records were examined with an officer from Work Cover and no payments were found to be outstanding. The officer took a copy of the records away and some months later telephoned our place of business at 8am in the morning saying there were six weeks owing. He appeared quite gloating in his manner and a complaint was levered to his superior. At a later stage the officer sat with one of us in attempt to explain where he had found the six weeks but his explanation was

perceived as inadequate. There was no cross-referencing of dates and payments from or to the insurance company - the worker or ourselves.

An examination of our records by our accountant later indicated the worker had not cashed the cheque, which was the final payment to them from the insurance company. During the time period involved the worker had moved addresses several times and had failed to notify us - the employer - of this. The cheque had been sent to the address on file and we failed to realize the cheque had not been cashed. We were advised of our responsibility but no responsibility was attached to the worker.

To date two weeks payments are still in dispute. We have offered to pay these two weeks even though we do not owe them in an attempt to end this dispute. We have however insisted the worker signed a release ending the claim and Work Cover do the same.

The worker has used the legislation to advantage and because of its structure they have been successful. The worker has not been encouraged to accept any responsibility for this claim and we are convinced for the worker it has become a habit. A habit they are reluctant to let go and we see no conclusion in sight to the harassment we have endured over the last few years.

Conciliation/Review and Work Cover have bullied and threatened us during this time in total support of the worker. The director of Conciliation / Review has told us the worker can at any time and at any place make a complaint against us without providing any evidence. We are a small business and are victims of government policies, which protect those who lie and cheat.

We have no dispute with those employees who are genuinely injured at work but it should not be possible for the system, which protect workers to be used fraudulently.

The problem may be the legislation and its interpretation. In this particular case there has been a lack of supervision and responsibility the claim has been passed on from one public officer to another and from one department to another. The worker also has had no responsibility whereas we as employers have been reminded constantly of the penalties we incur for non compliance.

The experience of the last few years have been horrendous and as average Australians one we would have not thought possible. Considering Worker Compensation and all it encompasses is funded by the public purse it is a disgrace in its present format.

C. F. Bell
Partners.