

**Senate Standing Committee on Education Employment and Workplace
Relations**

**QUESTIONS ON NOTICE
Additional Estimates 2009-2010**

Agency - Fair Work Ombudsman

DEEWR Question No. EW0863_10

Senator Cameron provided in writing.

Question

PHOENIXING

Is the Fair Work Ombudsman aware of the existence of the practice known as "phoenixing" in the building and construction industry; whereby the evasion of tax and other liabilities such as employee entitlements is achieved through the deliberate, systematic and fraudulent liquidation of related corporate trading entities and their subsequent resurrection in a different corporate guise?

Answer

The Fair Work Ombudsman has provided the following response.

The Fair Work Ombudsman is aware of the practice of "phoenixing". Anecdotally, this activity is not limited to the building and construction industry.

Activities concerning phoenixing do not fall under the jurisdiction of the Fair Work Ombudsman. In circumstances where the Fair Work Ombudsman suspects an issue of concern regarding possible breaches of the *Corporations Act 2001*, it is referred to the Australian Securities and Investments Commission.

When instituting legal proceedings against a company for breaches of Commonwealth workplace relations laws, it is the general practice of the Fair Work Ombudsman to also institute proceedings against the specific individuals responsible for the alleged unlawful conduct.

In circumstance where a company subject to a litigation is placed into administration or liquidation, the Fair Work Ombudsman is able to continue the proceedings against the individual involved in carrying out the alleged unlawful conduct.