

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

**QUESTIONS ON NOTICE
Additional Estimates 2010-2011**

Agency - Fair Work Australia

DEEWR Question No.EW0728_11

Senator Ronaldson asked on 23/02/2011, Hansard page 58.

Question

BDO KENDALLS REPORT AND SLATER AND GORDON REPORT

Mr Nassios—I think that the BDO Kendalls report is what is referred to as the Slater and Gordon report, but— Senator RONALDSON—Look, I was just wondering. I thought that also, but I just saw something when I was having a look through this again that indicated there might have been two reports. But I think it was the one report. Mr Nassios—I have seen so many documents. If there was a difference, it is not coming to mind. Senator RONALDSON—Do you mind taking on notice for me whether there were two separate reports. Mr Nassios—Certainly.

Answer

Fair Work Australia has provided the following response.

I refer to the Senate's Order of 13 May 2009 governing the raising and treatment of claims of public interest immunity in committee proceedings. I consider the provision of the information required to answer questions EW0728_11, EW0733_11, and EW0735_11 would be harmful to the public interest. I am of this view for the following reasons.

The legislative scheme of the Fair Work (Registered Organisations) Act 2009 is directed at ensuring that an organisation discharges obligations of accountability to its members in relation to the financial affairs of the organisation through proper and regular disclosure of financial information.

Inquiries are conducted under section 330 of the Fair Work (Registered Organisation) Act 2009 (RO Act) into whether Part 3 of Chapter 8 of the RO Act, the reporting guidelines made under that Part, regulations made for the purposes of that Part, or the rules or an organisation relating to its finances or financial administration have been, or are being, complied with.

If there are reasonable grounds for doing so, an investigation into whether a civil penalty provision has been contravened can be conducted. If, at the conclusion of an investigation, I as General Manager am satisfied that the reporting unit concerned has committed a contravention, the reporting unit must be notified and I may do all or any of the following:

- (a) issue a notice to the reporting unit requesting that the reporting unit take

- specified action, within a specified period, to rectify
- (b) apply to the Federal Court for an order under Part 2 of Chapter 10 (civil penalty provisions);
 - (c) refer the matter to the Director of Public Prosecutions for action in relation to possible criminal offences

Each of questions EW0728_11, EW0733_11, and EW0735_11 seeks information about the ongoing investigation. The information sought relates to the documents received by my delegate (EW0728_11), the number of "subpoenas" (a written notice under s 335(2)(c) of the RO Act) issued by my delegate (EW0733_11), and the requests made by my delegate during the course of the investigation (EW0735_11).

As the investigation has not concluded and no decision has been made by me whether to take action under any or all of the actions specified in (a), (b), and (c) above, the prospect of inflicting prejudice by answering any of questions EW0728_11, EW0733_11, and EW0735_11 on persons and the organisations the subject of the investigation, is substantial.