

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

**QUESTIONS ON NOTICE
Budget Estimates 2012-2013**

Agency - Fair Work Australia

DEEWR Question No. EW0167_13

Senator Abetz asked on 28 May 2012 , Hansard page 41

Question

FWA - potential HCSU conflict of interest

Senator ABETZ: I am not asking you to go on precedent. What would be your response if a punter advised you as they have with me in my home state of Tasmania? HCSU, which is the sister branch of HSU, had a former official who sold his shack to the union. The union now uses it for the benefit of members to have a free holiday house. That is all fine, but it is the conflict of interest situation. I do not know whether there is or is not, but would that be something that Fair Work Australia would be able to investigate to ascertain that it was all above board? Ms O'Neill: I would not have thought that every conflict of interest necessarily suggested a contravention of the rules or the registered organisations act, so I could not say in every case that the suggestion of a conflict of interest would trigger our attention. I will take that particular scenario on notice so I can have a look at that.

Answer

Fair Work Australia has provided the following response:

The General Manager would not necessarily be empowered to conduct an investigation under the *Fair Work (Registered Organisations) Act 2009* into an allegation that a former official had "sold his shack to the union". It would be necessary, firstly, to determine whether the "union" to which the shack had been sold was a reporting unit which is regulated by the *Fair Work (Registered Organisations) Act 2009* (or whether the "union" is registered under State industrial legislation).

If the "union" is a reporting unit, the General Manager is only able to conduct an investigation under section 331 into compliance by the reporting unit with its rules regarding finances or financial administration and specified requirements of the *Fair Work (Registered Organisations) Act 2009* if he or she is satisfied there are "reasonable grounds" for doing so.

In order to determine whether such "reasonable grounds" exist, the General Manager would generally examine whether the alleged transaction appears to have been made in accordance with the rules of the reporting unit and whether the financial reporting requirements of the *Fair Work (Registered Organisations) Act 2009* have been met, including whether the relevant general purpose financial report has been prepared in accordance with (and has made disclosure as required by) the Australian Accounting Standards. The General Manager would generally also consider whether there is any information before Fair Work Australia regarding compliance by officers

with their duties in relation to financial management of organisations, such as the duty to exercise powers and discharge duties with care and diligence, and in good faith and for a proper purpose (sections 285 and 286).