

**SENATE EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION
LEGISLATION COMMITTEE**

**2005-2006 SUPPLEMENTARY BUDGET SENATE ESTIMATES HEARING
2 and 3 NOVEMBER 2005**

EMPLOYMENT AND WORKPLACE RELATIONS PORTFOLIO

QUESTIONS ON NOTICE

OFFICE OF EMPLOYMENT ADVOCATE

Question Number: W564-06

Question:

Senator Marshall asked in writing:

In the matter of *BGC Contracting Pty Ltd & Ors v. CFMEU* [2004] FCA 981 a worker gave evidence that, despite never seeing or signing an AWA, the OEA had informed him that an AWA had been registered in his name. The worker later obtained a copy of the AWA from the OEA which he said had a false signature over his name. This evidence was not challenged in the proceedings. The allegation was brought to the attention of the OEA. The OEA undertook in writing to conduct an 'investigation' into the matter on 7 September, 2004. That process is still not complete. On 27 June, 2005 after requests from the CFMEU, the OEA advised that evidence had been gathered and the matter would "be considered by the Employment Advocate". It was noted in the earlier budget rounds that the OEA were conducting an investigation into issues of genuine consent regarding the *BGC Contracting Pty Ltd v CFMEU* case. The OEA indicated that it may publish the outcomes of this investigation depending on the results:

- (a) Has this investigation been completed?
- (b) Who conducted the investigation?
- (c) What were the results?
- (d) Please table a copy of the investigation's report.
- (e) Why hasn't this investigation concluded and when will it conclude?

Answer:

- (a) No.
- (b) Initially the OEA conducted the investigation. OEA officers prepared a report advising that the evidence disclosed no breaches of the *Workplace Relations Act 1996* but that issues of falsely signing an AWA would need to be investigated for any possible State Crimes Act or Commonwealth Criminal Code Breaches. The

Employment Advocate then referred these matters to the DEWR Fraud and Investigation unit on 12 September 2005. That investigation is ongoing.

- (c) There is no final result.
- (d) The investigation is not complete.
- (e) See the answer to Question Number W562-06(i) regarding the reasons why the matter has not been concluded. The OEA does not know when DEWR will complete its investigation.