

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

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

Agency - ABCC/FWBII

DEEWR Question No. EW0579_13

Senator Wright provided in writing.

Question

FWBII criticism of CFMEU

In recent Canberra Times and Sydney Morning Herald articles the Office of the Fair Work Building Industry Inspectorate (FWBII) criticised the CFMEU and its official Joe McDonald for not offering a defence to court proceedings and wasting union members' money: <http://www.canberratimes.com.au/wa-news/union-boss-penalties-top-1m-after-bullying-fines-20121010-27czy.html> <http://www.smh.com.au/wa-news/union-boss-penalties-top-1m-after-bullying-fines-20121010-27czy.html>

(a) Do you accept that Mr. McDonald and any other party who is potentially exposed to a penalty through proceedings brought by your agency, are entitled to rely on the privilege against self-incrimination and are not required to file a defence where they choose to rely on that privilege?

(b) Why do you consider it necessary for you to embark on a public political commentary on what represents the best approach for a union to take in relation to the management of its members funds?

Answer

Fair Work Building and Construction has provided the following response:

a) The privilege against self-incrimination is only available in criminal matters. FWBC operates in the civil penalty jurisdiction. Individual respondents are entitled to rely on civil penalty privilege. However, other entities, such as associations and companies, are not entitled to claim the privilege and may or may not be required to file a defence.

b) FWBC does not engage in public political commentary.