

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

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

Agency - ABCC/FWBII

DEEWR Question No. EW0581_13

Senator Wright provided in writing.

Question

FWBII - Diploma Constructions prosecution

In relation to the Diploma matter can you advise: (i) Which legal firm you instructed to run this case? (ii) Did you obtain details (or estimates) of the amounts that were to be charged by this firm and any counsel used in this matter at or about the time at which these legal service providers were retained? (iii) What is the total amount of legal costs to FWBII (and the taxpayer) for the conduct of this prosecution? (iv) When did you become aware of the amount of legal costs that FWBII had incurred in this matter? (v) Are you satisfied that all legal costs were properly incurred and necessary for the conduct of the matter and that Australian taxpayers have received value for money having regard to the amount of cost incurred by FWBII? Have you requested a detailed breakdown of how such costs were incurred? (vi) How do the costs incurred in this matter compare with those in similar matters brought by FWBII (or the ABCC)?

Answer

Fair Work Building and Construction has provided the following response:

- (i) Clayton Utz
- (ii) No. Clayton Utz was engaged under FWBC's existing legal panel arrangements in accordance with the Legal Service Directions.
- (iii) FWBC has conducted multiple civil litigation proceedings involving Mr McDonald's unlawful actions in connection with Diploma.

The proceedings have resulted in legal fees including:

- \$424,051.37 incurred in relation to unlawful industrial action on 5-8 and 24-25 June 2009 at Diploma's 915 Hay Street site. These costs were incurred in seeking interlocutory injunctive relief, seeking the imposition of penalties and the awarding of compensation to Diploma;
- \$100,340.50 incurred in responding to the CFMEU's unsuccessful appeal against the compensation order awarded to Diploma;
- \$198,695.06 incurred in relation to the CFMEU and Mr McDonald's contempt of the order of Gilmour J issued on 23 December 2009;

- \$562,618.31 incurred in relation to unlawful industrial action that occurred on 2 February and 10 June 2011 and associated coercion proceedings. These costs were incurred in seeking interlocutory injunctive relief and seeking the imposition of penalties.
- (iv) FWBC lawyers review legal costs on a monthly basis.
- (v) Yes. A detailed breakdown is provided on a monthly basis.
- (vi) FWBC has not conducted such comparative analysis