

20-7-06

PHIL CARBERRY  
PROP. MELTON ROOFING  
P.O. BOX 436 MELTON

MOB. 0418373610

SENATE EMPLOYMENT, WORKPLACERELATIONS AND EDUCATIONS  
COMMITTEE  
DEPARTMENT OF THE SENATE  
PO BOX 6100  
PARLIAMENT HOUSE  
CANBERRA ACT 2600 AUS.  
FAX: 0262775705

DEAR SIR/MADAM

I am writing in regards to the inquiry into the independent contractors bill 2006  
And feel I must make comment.

Mine is a long story so I will try to keep it brief.  
I started my trade in March 1972 \$25 for a 40 hr. week the work was hard and tough  
and all work was done by hand, but the boss ( although he was my boss he was not  
my employer and would legally have been my supervisor) was fair and we would  
often work hard and have early days we were looked after well in regards to not  
having to work in extreme weather conditions although there was virtually no work  
health & safety rules or guidelines. We worked under what was called piecework  
system that is we where paid by the square meter but the on-costs (workers  
compensation public holidays annual leave) were paid by the roof company, Monier  
roof tiles latter to become C.S.R. Monier if we did not work we did not get paid there  
was no retainer, but we had a union and an award and every few years it would be  
reviewed, at one point, around 1980 we were considered the highest paid tradesman in  
the housing industry.

By the time I was 19, I was working for my self as a pieceworker ( legally I was a  
P.A.Y.E. employee ) and made a very good living supporting a wife and 4 children .  
The job of roof tiling is extremely physical job, the average roof has about 2700 tiles  
weighing about 6 kilos with ridge caps and roof battens that's over 30 tons that has to  
be walked on the ground to the tile hoist on average 4-6 mtr. And then walked on the  
roof battens around 10-20 mtr. up and down the roof pitch in packs of 6 tiles weighing  
36kg this is done by 4 men three to four times a week, with no protection from the  
elements in all sorts of conditions. All this comes at great physical cost to the body  
although it kept me fit, I gave up all sport because of the strain of the heavy work on

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my body, although in my mid thirties I had resting heart beat of 38b/m, this is to reinforce my theory that we are closer to athletes then workers, there for making working hours more relevant to how the body feels then to a normal 8 hr day, a simple corked muscle playing with the kids after work could have dramatic and painful effect on your work for days.

In 1990 Monier decided that it could make more money, savings in work cover premiums they had to pay there whole work force on the highest rated workers at the time tilters were rated at 7.5% there rate went to 3.2% the rate for administration workers, when tilters were taken of the books, this saving was spread over hundreds of workers. They also claimed that tilters were not working long enough hours tilters were not productive enough, one manager told me that he was out raged that Monier had to supply a weather proof jacket to the tilters or that they had to pay rostered days off, which was paid only if you earn a certain amount each month, when they did not work a forty hour week. No consideration by management of what its like to work in 35deg. heat with out any shade for days on end, not even cool water to drink or to be in freezing cold wind for days, to be in showery damp conditions for days on end, to work in mud, in dust, in frosty weather, on dew coated roofs, or strong winds, all completely exposed to the weather with no physical protection they believe that these conditions have no health or safety issues. CSR Monier offered a 35% pay increase on top of our rates, they would supply all materials, as was the case already, they promised, state manager Peter Mathews and fixing manager Keith Miller, to review the rate every year based on CPI risers, and that they would keep control of the apprentices to make sure they looked after their rates and conditions as was the case previously, all this was lies to con us into signing away our rights to an award and collective bargaining and access to any tribunal or umpire. The sky did not fall in the next day the impact of these changes took several years to filter through. I was told to set up a PTY LTD company and told how I could avoid paying a whole lot of tax and to lease a new work truck and car, another way to keep us under pressure to except there non negotiated contract

I was pressured to taking the deal believing the lies and promises that management had made to me in face to face meetings. I was able to do well for about a year or so until each year they would make small changes to the contracts that slowly destroyed the conditions in the industry. The contacts were written up by CSR with no feedback from us tilters they were given out in the last week in December and we were told to have them back by the end of January. When I had come to the end of my tether in 1994 and demand a meeting with management saying that we had to negotiate a better rate I was invited to head office to negotiate, only to find that the deal was to sign their contract or I would have no more work (remember those vehicles on lease and I now had employees to look after, and the apprentices that Monier were going to keep on there books, that was another lie). This was the same pattern for the rest of my time at CSR.

I would send in bills for extra work performed they would ether not pay or change the amount on the bill with out even talking to me they make all the rules and these no negotiation entered into and no umpire

All though they make all the right noises about OH&S they would spend no money on it and would tell us that it was all our responsibility and when told of problems that they needed to fix they just ignore it. no extras for being sent to a job that's not ready or that's been stopped for safety reasons

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The manufactures not only wrote up the rates they would pay but they started to force use to supply more materials at our own cost and then demand that we use their brands

This come to ahead in 1999 when I made a stand on a safety issue, witch I took to work cover and was finally resolved in my favor after CSR told me it was not a safety issue. This course of action led to a run of unviable jobs further and further from home finally forcing me to take work on from Boral, after 27yrs at CSR Monier I did not even receive a phone call from management at any level (the phone numbers were well worn at all levels right up to the state manager Peter Mathews and at this stage Max Bloom as far as I know I still have a valid contract.

The big three CSR BORAL NUBRICK / BRISTILE have colluded to drive our rates down and with no union there is no way to get these manufactures to negotiate a fair and reasonable rate in 16 years the rate has moved about 13% on the labour content of the rates. This has forced tillers to cut corners to stay in business by ripping off there workers not paying the right, rate no traveling monies no RDOs, no wet monies, working long hours I was working 10 hr days, apprentices not paid to go to school, not supplying work boots, working in unsafe weather conditions, super not being paid, protective equipment not been supplied worker not been covered for work cover insurance the list goes on. And of course non of the manufactures want to police these conditions because they know the rate they pay the contractor wont allow it. And by cutting corners in OH&S issues not supplying safety boots, gloves, dust marks etc. not tagging electric tools, working on unsafe sites because there no allowance for lost time or they do not want to get a bad name as a trouble maker.

In 2003 when a group of us tilers formed the roof tillers association to negotiate with the big three manufactures who happen to pay within a few cents of each other, I personally with others were threatened by CSR legal department in Sydney with sections of the trades practices act and with collusion, my details were supplied to CSR by BORAL because BORALS head office had my fax number wrong and CSRs legal dep't. Fax went to the wrong person they forwarded it on to me as had happen before with BORAL faxes after a phone call to BORALS fixing manager to complain I had a new fax from CSR (who I had not worked for in 5yrs new address and fax number) within the hour who was colluding ????

After 29yrs in the industry and with broken vertebrae in my back I was forced out of the industry and found that at 49 years old and all that experience there was no place for a "trouble" maker like me in the industry.

I will enclose some of the letters that were ignored by these all caring safety concerned building company's, who only concerned is there bottom line and have no social conscience for the workers and there conditions and have no intension of negotiating with any one then they can just bully and use their legal team to twist the laws and rules to suit them

Yours sincerely  
Phil Carberry.

PS please confirm fax

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**MELTON ROOFING PTY LTD**

A.N.C. 056001168

EST. 1976

PO BOX 436 MELTON 3337 VIC Phone 0418 37 3610  
(03) 53 67 2181 FAX (03) 53 67 2181.

To C.S.R. BUILDING MATERIALS  
Smith Rd. Springsvale

FAX. 92636363.....

MAX BLOOM  
VICTORIAN MANAGER  
MONIER ROOF TILES.

14-6-99

DEAR MAX,

I AM WRITING TO DRAW YOUR ATTENTION TO A SAFTY ISSUE WHICH I HAVE DISCUSSED WITH KEITH MILLER. REGARDING THE USE OF 38X25 MM. BATTEN. THESE BATTENS ARE NOT ONLY UNSAFE BUT DANGEROUS WE HAVE HAD MANY CLOSE CALLS WHEN THESE BATTENS HAVE BROKEN UNDER OUR FEET WHILE BATTENING AND REQUIRE GREAT CARE WHILST LOADING. AS MY PREVIOUS COMPLAINTS HAVE FALLEN ON DEAF EARS I MUST CONCLUDE THAT YOU ARE NOT AWARE OF THE SERIOUSNESS OF THE PROBLEM. I AM THEFORE PUTTING YOUR SELF, KRITH MILLER AND MONIER C.S.R. LTD. ON NOTICE THAT MY COMPANY IS BEING FORCED INTO A UNSAFE WORK PLACE AND WILL BE HOLDING THE ABOVE MENTIONED RESPONSIBLE FOR ANY ACCIDENTS ARISING FROM THESE BATTENS

YOURS PHIL CARBERRY  
MELTON ROOFING

**MELTON ROOFING**  
ABC 05000188

Address Line 1 LOT 7 HOPTOUN PARK RD. BACCHUS MARSH  
P. O. BOX 436 MELTON  
VIC. 3337

Phone 0418373610  
Fax 03 53672181

MISS J. DUNCAN M.L.A.  
P.O. BOX 39  
GISBORNE 3437.K

Dear MADAM,

Regards phone call made to your office on Monday 27 -2-2000 ,heres a quick back ground of my situation .  
I have been in the industry since 1972 ,I am V.President of Tilers & Roofers Ass.(vic.) and have 6 employees.  
About 18 months ago C.S.R. (MONIER) LTD, introduced 38x25 mm tile batten (were 50x25) to save money.  
Although there comply with Aus. Standards albeit in a very grey and untested area. Right from the start I and other  
contractors complained that they were not safe to work on ,they break on the knots between rafters they wont hold  
the wait of a man carrying a load of tiles about 110kg. the nail guns split them and often the rafters span more then  
600mm . After complaints from my own employees and meetings with C.S.R. that went nowhere I penned the  
enclosed letter and received no response ,within weeks they let my contract lapse after 28yrs.  
I have tried for several months to bring this and another matter also ignored by C.S.R. and which has caused  
injuries to 5 of my employees to the attention of WORK COVER and to my surprised can not even get a meeting  
with an inspector.  
Finally of the four manufactures and all the suppliers of roof tiles in this state C.S.R. are the only one using these  
unsafe battens.  
Could you please show this letter the responsible minister/s before somebody is killed and also find out why  
WORK COVER will not meet with me,hoping you will act with some hast.

Sincerely,

PHIL CARBERRY.

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2 April 2004

Mr Phillip Carberry  
Melton Roofing

PRIVATE & CONFIDENTIAL

By Facsimile: (03) 53 682483

Dear Sir

RE: Proposed Action by Victorian Roof Tiling Contractors.

I am writing in relation to a meeting of roof tilers that I understand took place in Deer Park, Melbourne, on 1<sup>st</sup> April, in which you participated.

I understand from representatives of CSR Monier Roof Tiles ("CSR Monier") that the meeting discussed, among other things:

- rates and other terms of engagement to be agreed among tilers as a basis for negotiations with CSR and other companies;
- collective action, including the withdrawal of labour, to be taken by roof tiling contractors in support of a claim for rate increases;
- a deputation from the meeting to visit building sites over ensuing weeks to ensure that no tiler "breaks ranks" and that any tiler doing so may face retribution.

In CSR Monier's view, your conduct and that of participating tilers at such meeting is potentially in breach of the Trade Practices Act. As you are aware, tilers are independent contractors who are in competition with each other for the provision of services to CSR Monier and other prospective users of their services.

Under Section 45 of the Trade Practices Act it is illegal, inter alia, for competitors to enter into any contract, arrangement or understanding (or attempt to enter into any contract, arrangement or understanding) that has the purpose of preventing, restricting or limiting the supply of goods or services to particular persons or classes of persons. Such an arrangement is referred to under the Trade Practices Act as a "collective boycott" and includes conduct such as competitors agreeing not to supply services unless they receive a certain price for those services. Arrangements between competitors that fix or maintain prices are also outright illegal under the Trade Practices Act.

eys

CSR Limited, ABN 90 000 001 276  
Legal Department, Level 4, 9 Help Street, Chatswood, NSW, 2067, Australia  
Locked Bag 6, Chatswood, NSW, 2057, Australia. Telephone +61 2 9235 8043, Facsimile +61 2 9235 8037

2 April, 2004

*Private & Confidential - Mr P. Carberry*

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Breaches of these provisions attract penalties of up to \$500,000 for an individual and \$10,000,000 for a corporation. Under section 75B of the Trade Practices Act persons "involved in" a contravention are also liable for such penalties.

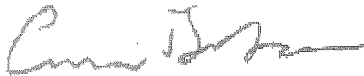
You should also be aware that in 1996, Monier Roofing Limited, Eural and Hallet Roofing Services were each ordered to pay a penalty of \$100,000 to the Commonwealth after the Trade Practices Commission commenced proceedings in relation to the fixing of the rates paid to roof tilers that were members of the South Australian Roof Tilers Association. Furthermore SARTA and three of its individual members were also prosecuted and had orders made against them.

We are concerned that certain tilers, who, as independent contractors, are competitors with each other, may be attempting to enter into a price fixing arrangement and or boycott in breach of the Trade Practices Act. Clearly, CSR Monier will not participate in nor facilitate any such arrangement.

In light of these issues, we suggest that you obtain independent advice as to the legality of your actions and those which you say are proposed by other tilers involved.

CSR Monier negotiates rates and other terms with our contractors on an individual basis. CSR Monier will take appropriate action in response to any collective action on behalf of contractors that is in breach of the Trade Practices Act.

Yours faithfully,



Chris Bertuch  
General Counsel

2-4-04

Phil Carberry  
P.O.Box 436 Melton 3337

Chris Bertuch  
CSR Monier

Dear Sir

I am writing in regards to the facsimile sent to me by you on Friday 2-4-04, and must warn you that you are in breach of privacy laws to obtain the information which has been supplied by you're competitor and this can be proved (I have copies of both faxes 2-4-04, 10.39am & 16.03pm)

These facsimiles will show that you have also colluded with other tile manufactures in obtaining this information and are also targeting contractors.

You have also made some serious allegations, which I hope you can substantiate, as I will be taking this matter further.

You may also want to explain how CSR Monier can negotiate with contractors on an individual basis and yet still pay exactly the same rate to all those contractors. A rate I might add that is so low that it is threatening the solvency of these contractors.

I further advise you that you may need to look seriously at sections of the trade practice act and your treatment of small contractors and forcing of unfair and unconstitutional contracts with no allowance for basic workers entitlements and no provision for O&S issues.

You may want to familiarize your self more with section 45 - 46 and 52 of the act.

Yours faithfully,



Phil Carberry.



**Paragon  
Roofing**

Moretown Roofing Pty/Ltd  
T/A Paragon Roofing  
ACN. 004 618 677  
5/9 Borrell Street  
Keller  
Vic 3036

Phone: 9331 5182  
Mobile: 0400 612 700  
FAX: 9331 6192  
email: iantownsend@bigpond.com

# Facsimile

To: Steve Mc Intyre  
@Fax: 03 92636363  
From: Ian Townsend  
Date: 4/7/2004  
Re: Rates rise  
Pages: 1, including this

Dear Steve

I don't think you and CSR Monier understand the situation I am in and the situation I find myself in is no longer sustainable as outlined in the letter from my accountant.

As always the same reasons for not being able to increase rates are given, you don't negotiate rates. CSR Monier tell me what you are going to pay and if I want to work I have to agree, this is a grossly unfair situation with all the power on your side. It may come as a surprise to you but I can no longer tolerate being treated like this and you have left me with no choice but to take the actions I have by withdrawing my labour, as this is the only source of power I have and the only thing I have direct control over.

I don't wish to jeopardise the good working relationship I have built with CSR Monier over the last ten years but this is my last chance in the sustainability of the health of my company.

I hope this situation of the lack of negotiations can be resolved for the benefit of both parties. I want the current situation and future negotiations can be carried out on a level playing field because at the moment and in the past they have not, all the power and gun holding has been on your side.

I am fighting for my survival and have been backed into a corner this is the only option I feel I have left.

Yours Sincerely

Ian Townsend

*SURE PHIL :- CAN YOU RATA THIS  
AND LET ME KNOW WHAT YOU THINK  
BEFORE I SEND IT*

*IAN*

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PHIL CARBERRY PRESIDENT ROOF TILERS AND SHINGLERS ASSOCIATION  
MANAGER MELTON ROOFING  
PO BOX 436 MELTON 3337  
PH. 0418373610 FAX. 0353672181

6-4-04

To general manager CSR limited Monier , Austral bricks (Nubrick), Boral  
Limited., Barro group Alice roofing.

DEAR SIR.

I am writing to inform you of the problem facing to roof tiling industry and there for the roof fixing departments of your company, there seems to be a coordinated effort by management to systematically destroy the trade of roof tiling.

This job is probably one of the most physically demanding with the most manual lifting and weather exposed jobs in any industry. In a modern society it is getting harder to find young people to train, it takes several years after finishing their apprenticeship to train a good effective tradesmen. The drop out rate for apprentices is running at about 70% and of those another 50% will not make it to a viable contractor.

I have been trying to explain to your fixing managers over the years that this is going to dramatically affect the roof fixing departments, over the next few years

These managers and your self must understand the physical demands that the job put on the body particularly backs elbows and knees. The physical work the work from height and the constant exposure to sun wind and frosts hence the short working life, as I can testify after thirty one years of toil on the body, I have been thrown on the scrap heap with no further use to the industry at the age of forty eight.

This contempt for the workers in this industry is shown by all manufactures and thus through to the price paid per metre. With the extra work now required to fix tiles and the compliance of the OH&S and a rate so low that the only way to survive is to work long hours and break OH&S regulations and to take entitlement of the workers, this has destroyed working conditions in the industry. Yet management still want to negotiate a rate, which will not allow us to pay our workers a good wage and have proper working conditions contra the rate is so low that many are close to insolvency.

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If management is so callous towards the roofing contractors and are so willing to destroy the trade (although its been a cash cow for your company) why not go to supply only, and let us deal direct with the builders at lest they appreciate the work we do, look what has being done for the brick laying trade by the HIA and builders to try and save that trade.

The rate per metre has risen approx 19% since 1990 of that 5% has been used for extra work and materials because of changes in work contracts, the CPI has risen 43% in that time and that does not include increases in - super payments 80% work cover 45% wages 28% insurances 50% cement 40% and many other direct costs.

It is worth noting that in most building and engineering project the rule of thumb is that labour /material is around 50/50 on cost basis, roof tiling in Vic is about 23% labour. Maybe we need to look at you fixing departments.

I hope you can look at these matters before the industry is at a point of no return.

Yours sincerely

PHIL CARBERRY.

melton roofing P.T.Y.L.T.D

A.B.N. 20749227381

A.N.C. 056001168

EST. 1976

5-6-2001

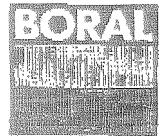
ATT. JEFF FOWLER  
CONTRACTS MANAGER BORAL ROOFING  
66-78 TOOTAL RD. DINGLEY VILLAGE

FROM PHIL CARBERRY  
RE JOB @ 967 UNIT 1 MT. ALEXANDER RD. ESSENDON  
ON STARTING THIS JOB THIS MORNING AT 7.45 A.M. WE FOUND FOUR  
BRICKLAYERS AND ONE CARPENTER ON SITE ,THE OWNER AND HIS WIFE  
COMING AND GOING ALL DAY ,SALES REP. AND HEATING FIXER , AT ONE POINT  
12 PEOPLE ON SITE  
THIS SITE HAS 3 TWO STOERY UNITS PLUS GARAGES ON A 13X40MTS. SITE.  
THIS PROBLEM NEEDS TO BE ADDRESSED  
ALSO NO SAFTY SWITCH (I SUPPLIED PORTABLE ONE) POWER FROM UNIT NEXT  
DOOR, WATER FROM NEXT DOOR, NO TOILET, NO PARKING.WE ALSO HAD TO  
BLOCK THE FOOTPATH ALL DAY ON A MAJOR ROAD.  
BORAL NEEDS TO HAVE J.S.A.IN PLACE FOR WHAT'S NEEDED FOR SAFE FIXING  
BEFORE THE TILER ENTERS THE SITE IT NEEDS TO BE DONE WITH THE  
SUPERVISER THE BUILDER AND YOUR OFFICE, ALSO THE SALES REPS. NEED TO  
BE MADE AWARE OF THIS AND INFORM THE BUILDERS ON THESE TIGHT UNIT  
SITES IN BULT UP AREAS  
FURTHER WE NEED SITE ALLOWANCE TO ALLOW HAND MOVING OF MATERIALS  
TO AND FROM ROOF, EXTRA WALKING OF MATERIALS AND RUBBISH ON ROOF  
AND THE ABOVE PROBLEMS  
THE ABOVE JOB PAYS \$1600.00 I HAVE SPENT 9HRS. ON SITE AND STILL HAVE  
ABOUT 13-16 HRS STILL LEFT WITH 3 TRADEMAN AND MATERIAL THIS IS A LOSS  
FOR MY COMPANY. LAST TIME I DID A JOB LIKE THIS ONE MY TRUCK OUT IN  
THE STREET I HAD A \$1000.00 GAS GUN (4 WEEKS OLD) STOLEN PLUS 2  
WALLETS FROM MY WORKERS ANOTHER LOSS MY COMPANY HAS TO WEAR ON  
A JOB WERE WE ARE NOT EVEN MAKING WAGES  
WOULD LIKE RESponce TO THE ABOVE PHIL.



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Boral Roofing



BORAL MONTEIRO LIMITED (trading as Boral Roofing)  
66 - 78 Tootal Road  
Dingley Village VIC 3172  
PO BOX 1080  
Rosebank MDC 3169  
Phone: 03 9551 1788  
Fax 03 9551 1898

Facsimile Transmission Sheet

To	Phil Carberry
Company	Melton Roofing
Fax number	0353672181
From	Jeff Fowler
Date	7 <sup>th</sup> June 2001
Subject	Site Safety
Number of pages including this sheet	1

Phil,  
Thank you for raising the issue of site safety

We currently have a site inspection before the job is delivered and then one by the driver on delivery; I will change the driver site assessment to include toilet facilities.

In the case of the units you were working on we have had two other tiling contractors do risk assessments on the rear units before you started yours and none of your issues were raised. I am told the owner owns the site next door and that is why we were accessing power etc. from there. Were toilets available there?

I agree with your comment on discussion with builders on all sites as to other trades on site and will speak to the sales manager about getting a notice to builders on this subject.

Unfortunately most building sites are accessible to the public and with that in mind from your companies perspective it may be advisable to have a sign stating that you are working on site and access should be restricted etc. I would be happy to help with the design etc of that if you wish. I have a sample of Deck Guardrail's in my office to start with.

As you are aware extra payments are made on a job-by-job basis and you should speak to Mike about that issue.

In regards to your stolen property, unfortunately you should always lock all equipment and personal belongings even if you are parked on site

Please ring to organise meeting re: design of the sign etc  
Best regards Jeff

The information contained in this facsimile is of a confidential nature and its sole use is for communication purposes between the sender and addressee. Your respect of this confidentiality is appreciated. If you have received this facsimile in error, please notify the sender on the above telephone number.