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To The House of Representatives Committee

RE: SUBMISSION FOR INQUIRY INTO WORKPLACE BULLYING

SYNOPSIS OF THIS LETTER

I am making this submission of my personal experience of workplace bullying and dealing with the Workcover system.

In addressing the terms of reference, my experience has been that support services are severely inadequate to either prevent or respond to workplace bullying. As an injured worker I have found support services are virtually non-existent.

I have had three separate injuries in the workplace, the latter two being related to workplace bullying, and have had to rely on Centrelink Sickness Allowance and charity to survive the complex and treacherous Workcover claim process. Services such as Jobwatch are almost impossible to access and do not provide adequate legal, informational or psychological support for what is an extremely distressing experience.

The role of workplace cultures of bullying is pivotal in the incidence and seriousness of workplace bullying. The workplace cultures that I have experienced have supported bullies and heavily discriminated against and further injured the victim of the bullying.

In my case, I was constructively dismissed on three consecutive occasions by three consecutive employers.

On all three occasions the dismissal was related to reporting an injury, and on the second and third occasions I was constructively dismissed and further bullied for reporting the bullying and the injuries I sustained due to the bullying.

In the three workplaces where I have been injured, policies and procedures are either completely non existent or farcical, merely comprising of inadequately written empty words on paper, which bear no relationship to the company's actual handling of incidences of workplace bullying.

In the workplace where I sustained injuries due to sexual harassment, bullying and victimisation, the company contradicted their own policy in their management's findings of their internal investigation by stating that harassment had occurred but that it was not bullying and therefore not in breach of OH & S laws or their company policy. This heavy handed and ignorant approach to the company policy and procedure rendered the policy completely useless.

I was also told that if I disagreed with their findings and recommendations that I could refer to the company's "grievance procedure policy", literally an exercise in complete

futility, as that was where I had been directed to in the beginning of the complaint process. The policy and procedure in that case completely failed and served only as a mechanism to divert attention from the undisputable facts, and tie the victim up in a circular and meaningless bureaucratic labyrinth. The policy was used as a corporate tool to confuse and misdirect the victim, in the absence of any humanistic approach.

An injured worker's only recourse in this case is legal action, which is virtually impossible to access financially, as well as practically impossible to approach or organize while suffering the effects of a psychological injury. Workplace bullying injures workers but the complaint process and further complex Workcover and legal issues only serve to practically disable the already injured worker.

In my experience there does not appear to be any deterrents whatsoever in the existing frameworks. Bullies are allowed to remain at work, or are even promoted, while their victims are dismissed and have their careers and lives ruined. The existing frameworks only appear to further encourage bullies, as their victims are pushed out of the workplace, allowing them the freedom to bully again.

In my case this has happened in two different consecutive workplaces. The second injury being further compounded by the fact that my employer knew I was already injured by harassment and bullying in the previous workplace, that I had been on Workcover payments and was recovering from a psychological injury, yet this did not stop him from further injuring me and repeating the exact same actions and approach as the previous employer. Those actions being that when I made the complaint, the employer took an adversarial rather than collaborative approach to the situation.

The people who harassed and bullied me have not been disciplined in any way. The first person was allowed to go on annual leave after I made the complaint and then remained in the workplace. In the second case, the person was my employer and therefore had no higher authority to enforce any disciplinary action. Instead, I, as the victim in each case, have suffered many negative effects, including constructive dismissal, financial hardship, loss of income, loss of opportunity, psychological injury and the debilitating effects of Post Traumatic Stress Disorder.

Bullying is a crime. The victims of these crimes go unheard and un-noticed. Many of them contemplate or commit suicide in order to escape the hellish suffering that they are forced to endure. Victims of natural disasters receive immediate relief and assistance from support services and community donations, such as in the case of the Black Saturday bushfires. If the community was made aware of what is actually happening to victims of workplace bullying, they would support them.

There needs to be a specific support service in the community for these victims, as this happens daily and yet most victims are too frightened to approach the media to make the community aware of what is happening to them.

MY EXPERIENCES OF WORKPLACE BULLYING

I have in recent years been bullied several times in the workplace. I will firstly give some background as to the reason I was made vulnerable to the bullying. I am 39 year old female, university educated with high academic achievements, highly competent and experienced in my field and normally confident and psychologically well balanced, with no previous history of psychological or psychiatric disorders, until I was bullied in the workplace.

I had a relatively minor back injury three years ago, which put me off work for approximately six weeks. I was employed casually at the time, and although my employer had made promises to me of a full time salary package for the previous five months, they immediately dismissed me when I had the injury.

I made a claim for Workcover weekly payments which was rejected because my employer lied about the heavy weights I was lifting and the "IME" (Independent Medical Examiner) doctor told me that Workcover was for people with permanent injuries and that I had not suffered a real injury. I could barely walk for six weeks and was in terrible pain.

My injury did heal but I still have to be careful not to lift anything too heavy. Of course having no income was very financially stressful, but worse was the psychological effect. At the age of only 36 I felt as though this was the end of my career, that I would never be able to work again in my chosen profession of Floristry and became very depressed and anxious as a result. This made me very vulnerable to further injury by bullying and what followed shows how injured workers are particularly vulnerable to workplace bullying.

Out of financial desperation I took a full time job in a very large national fresh flower distribution company that I would not normally consider working for, as I had mostly previous worked in the “high end” of the industry and had specialized skills in that area. This new workplace though, offered international opportunities and I was hired in a Senior Head Florist role, training staff to make flower arrangements to be delivered to supermarkets across Victoria.

There was a very clear division between senior management staff and the “factory workers” who were largely unskilled, uneducated and with poor English language skills. I witnessed these workers being regularly bullied by being shouted at, micromanaged and constantly heavily pressured by supervisors and saw that although they had union representation, they were often unfairly treated. There was an obvious power imbalance between staff in this workplace. I had some conversations with other senior staff just before they resigned about the systemic bullying culture that existed in the company.

Immediately after these two senior male managers had resigned, the Operations Manager, another older male, of approximately 60-65 years of age, began to aggressively sexually harass and bully me. His actions included sneaking up behind me unseen to whisper in my ear “Quick, while no-one’s watching” and kiss the side of my face, grab my body and push his body up against mine, approach me silently from behind while I was seated at my L-shaped desk and trap me into the corner of the desk, while leaning over me from behind and brushing his arm across my breasts as well as deliberately bashing into me in corridors and pretending that it was an accident. He would also attempt to ridicule me in meetings in front of other staff.

Due to the financial stress from having been previously unable to work for six weeks, and desperation to stay employed, I put up with it for a number of months but I began to suffer from headaches, loss of appetite, loss of libido, difficulty concentrating, memory problems, nightmares, difficulty sleeping, irritability, outburts of anger, being easily startled, muscle tension, nausea, diarrhea, anxiety, depression, withdrawal from friends and family, nervousness, fear, anger, social anxiety, hyper vigilence, distress and increased anxiety about protecting myself in the workplace.

I finally made a complaint to the HR department.

I was told by the HR manager to make a joke next time the sexual harassment happened, and was sent home that day and never returned to work, while the person who harassed and bullied me remained at work.

I again made another Workcover claim, this time it was accepted. I received psychological counselling and was placed on anxiety medication. I had become suicidal. I did not receive any support from family or friends, the symptoms of my injury were treated as trivial by my family, which caused a huge rift in my family which still has not been repaired.

The employer was horrendously aggressive and threatening towards me, victimising me for months. The employer sent me threatening confidential letters, threatening to dismiss me, telling me that I could not talk to ANYONE about what had happened. They tried to force me into several meetings but I was too frightened and unwell to attend. They had no procedure for this type of complaint, and only a very weak policy of a couple of paragraphs regarding discrimination and grievance procedure. It was obvious that they did not take my injury seriously. This company employs hundreds of people nationally, and yet their policy and procedure was incredibly poor and inadequate.

They conducted an internal investigation and I was on Workcover payments for about one year. I was never informed of the Operations manager's response in any detail. Approximately two months after I had made the complaint, I received a two A4 page report of the findings of their investigation (the investigation was conducted by the company's HR manager and General Manager of Finance-hardly an "independent" investigation) which stated that they had found evidence that harassment DID occur, but that it was not bullying and therefore was not in breach of their OH&S laws or their company policy.

Their recommendation was that I should attend a conciliation meeting with the Operations manager who had sexually harassed and bullied me, which would be run by another "independent" third party, with the intention of resolving the issues and working on a plan for me to return to the workplace. I was extremely frightened for my physical and mental health and safety and I did not under any circumstances want to ever be in this person's presence again, therefore I did not attend any conciliation meetings.

They also told me that they would find an alternative role for me.

Several months later I returned to work part time in an extremely demeaning role for the same company, off site, away from the person who had harassed me. This was very demoralising, but I was determined not to let it completely destroy my already injured self esteem.

As a result of being on the continuing reduced pay from Workcover payments from the accepted Workcover claim, I was no longer able to pay the expensive Melbourne rent, and was forced to re-locate to a regional area with cheaper rent. As a result of having to re-locate, I have had to commute from Ballarat to Melbourne each day to work. This forced re-location has also made it very difficult to find work as there is not as much opportunity in the regional area where I live. The high level of specialised skill that I have also means that my employment opportunities are limited to Metropolitan businesses.

My psychologist, an expert in bullying, Ms. Evelyn Field, was very supportive and helped me to see the truth of what was happening to me. She encouraged me to find employment elsewhere. Through the occupational rehabiliation services and the WISE (Worksafe Incentive Scheme for Employers) subsidy program, I secured a full time job in a prominent high end florist in the Melbourne CBD and was under the illusion that my life was going to get back to normal.

My new employer was receiving a substantial percentage of my wages through the WISE program, which ran for twelve months. Immediately after the twelve months had elapsed, my employer put my dismissal into place, over my having been temporarily absent from work for a few days due to illness, although I had provided a medical certificate.

The new employer had also begun to bully me. Immediately after the twelve months of the WISE program finished, the bullying escalated to an extreme level and culminated in a humiliating meeting in a public place, where I was accused by my employer of lying, stealing and ridiculing my employer. The accusations were not based on any kind of facts or evidence, simply on my employer's increasingly hostile and intimidating attitude and paranoid perceptions of me. I was not informed before the meeting that I was to receive a verbal warning and was not given a chance to organize a witness.

Recent dismissal of staff had increased all of the staff member's workload, but when I asked to have them replaced as I was becoming very fatigued and stressed, I was ignored, and when we said we were falling behind in our work, we were loudly and rudely told to "Suck it up!"

During the meeting he told me that he could see that I was feeling the pressure and that I was always the one who was going to get sick. He told me that my having had the flu for a week had cost him a thousand dollars and that he could not pay his mortgage. He told me that I should stop thinking so much about myself and more about the business.

He accused me of ridiculing him by accidentally miscounting the register cash by twenty cents. He told me I was weird and inappropriate when I approached him about a very serious health and safety issue. He made derogatory comments about my appearance and about my partner who he had only met once for a couple of minutes.
He had basically noted every tiny mistake I had made in the previous twelve months and suddenly confronted me with all of these tiny mistakes all at once. He accused me of lying about what time I had started work, and also of taking $5 from petty cash eleven months earlier. He gave me no opportunity to respond.

Goalposts were constantly moving, expectations were contradicted and impossible to meet, positive comments were non-existent. There was a constant atmosphere of tension whenever he was present. Another staff member confided in me about how scared she was of him and said that she had heart palpitations whenever he came near

her. Neither of the other staff members participated in the Workcover circumstance investigation.

Unfortunately the business is a small business with only three employees, with my employer being the highest authority to report my complaint to. There is a complete absence of any kind of policy or procedure. My new employer has denied the bullying took place and yet has continued to further bully me via email since I left the workplace on May 15th 2012.

Again, I have been suffering the effects of Post Traumatic Stress Disorder: headaches, loss of appetite, loss of libido, difficulty concentrating, memory problems, nightmares, difficulty sleeping, irritability, outburts of anger, being easily startled, muscle tension, nausea, diarrhea, anxiety, depression, withdrawal from friends and family, nervousness, fear, anger, social anxiety, hyper vigilence, distress and increased anxiety about protecting myself in the workplace

I have again applied for Workcover payments, because my insurance agent (Allianz) from my previous Workcover claim told me I could not claim the re-aggravation of my PTSD symptoms as part of the original claim that had been accepted, because I had not seen my psychologist since I had started my new job. I had asked Allianz just a week or so previously, if they would pay for me to see her again, but they refused to, as it had been too long since I had seen her. Allianz had told me when I started the new job that I was going to still be covered under the old claim if I had an injury in the new workplace but they never called me during that time to monitor my progress.

They told me that although this was a re-aggravation of a pre-existing injury, that it was considered a new injury and therefore could not pay for me to have any more treatment under my previous claim. I made a new claim for weekly payments.

My new work cover claim has been rejected. The new insurer's (Xchanging) decision was based on the employer denying everything, even though I have written proof of the bullying, and also based on the lies of the "IME" psychiatrist who saw me for only thirty five minutes and reported many things completely contrary to what I told her.

This psychiatrist did not consult with my GP or my psychologist and had no knowledge of my previous claim, injury or medical history. She told me would test whether or not I was actually suffering from difficulty concentrating by asking me to memorize three basic words which were “Paper, apple, cat”. A couple of minutes later she asked me to repeat those words back to her. I did, successfully, although in the wrong order.

Surely, this cannot possibly be considered rigorous testing of an already documented psychiatric/psychological condition. I find the notion that this is used as a test by a qualified psychiatrist absolutely preposterous. This woman later claimed in her report to Xchanging that I was fit for full time duties with my employer and that I was “unwilling” to return to my current workplace, although I had told her that I would like to return to work but did not feel safe to.

I also told her that the workplace was directly across the road from her clinic on Collins St Melbourne and that even attending that appointment with her had caused me extreme anxiety, as I was in very close proximity of the workplace.

I am currently seeking legal advice. I have now come to the realisation that all of this goes right back to the original back injury which made me very vulnerable to workplace bullying. If I had been treated properly by my employer when I had that first back injury,

I would never have gone to work for the company where I was further injured, and would not have been so vulnerable to further psychological injury.

If I had not been bullied and sexually harassed in THAT workplace, I would not have been pushed by the return to work program into another position where I was further exploited, bullied and injured by yet another greedy and cruel employer.

Since sustaining these psychological injuries, I have found it incredibly difficult to find work.

The stigma of having a psychological injury is evident in prospective employer's view of me as a potential liability. I never had any problems with anxiety, depression or psychological issues before any of this happened.

The "domino" effect of being injured by workplace bullying is crippling. The effect on my professional confidence and personal self esteem has been staggering.

The injuries have affected every area of my life, including my intimate relationship and relationships with friends and family members. I had been planning to start a family, but can no longer entertain the idea, as my financial situation is so dire and shows no sign of improvement in the future.

The ongoing financial issues are immense and have only been made worse by the Workcover system and my current employer's shockingly cruel attitude towards me. I came to this employer with full disclosure about my previous injury, He was aware of what I had endured and well aware of the ongoing financial difficulties.

He has cut off my pay, not offered to pay for any medical treatment, delayed returning paperwork to Centrelink which delayed my Centrelink Sickness Allowance payments, has emailed me calling me "vexatious" and "venomous" when I attempted to respond to his allegations after the first verbal warning.

He has also issued me with another written warning for reporting the injury from the bullying saying that I had not given him reasonable notice of my absence from the workplace due to injury. He has also told me that I have abandoned the workplace and therefore have revoked my rights to employment. I have all of this in writing and included it in my Workcover claim statement, and yet Xchanging have completely ignored the evidence of the bullying and told me I have not suffered an injury. The "IME" psychiatrist has told Xchanging that it is unlikely that I have ever suffered a psychiatric condition. The staff member from Xchanging who called me to inform me of the rejection of my claim, favoured and defended my employer's opinions.

My dreams of saving up a deposit to buy a house have been destroyed, as I am now trying to cope with large debts incurred by periods of being unemployed. Other aspects of being involuntarily "shunted" from employer to employer include difficulty in securing any kind of bank loan or new employment, as I am viewed as somehow "unstable" due to having had to relocate and change jobs.

People think being on Workcover is like being on a paid holiday, it isn't. It consumes your life and your self esteem. I wish I had never had that original injury. The domino effect of one injury is crushing, I can see now how the original physical injury actually created a psychological injury also, which made me very vulnerable to further injury.

In each of these cases, my only recourse has been to seek legal advice. In seeking legal advice I have found that the financial barrier has prevented me from being able to afford a solicitor. One solicitor I spoke to told me it would cost a minimum of $2500-$3000 just for them to have a first meeting with me, and a further $10,000 to write a single letter to the employer.

With my current income at $250 per week on Centrelink Sickness Allowance, and no savings due to having been already financially crippled from previous Workcover experiences, needless to say I am experiencing severe financial hardship. Additionally, my psychologist requires $200 upfront payment for one appointment, only $83 of which Medicare will refund on the Mental Health Care plan. My current weekly household expenses are approximately triple my income. I may have my credit rating destroyed, and after five years paying off my car, I am now unable to make the final $1000 payment, which is only accruing interest and destroying my credit history with that finance provider.

My partner is a full time student currently and so is unable to assist. Family and friends are unable to assist. I am currently relying on charity to provide food to eat. I am $600 behind on rent, $500 behind on credit card payments, $1000 overdue on car payments, unable to pay bills and now facing homelessness. I am appealing the decision to reject my Workcover claim, but that may take up to six weeks to reach conciliation. During that six weeks I may become homeless and there does not seem to be any way to speed up the process.

Clearly, any legal action and my potential recovery from these injuries would require consistent medical treatment and reporting, which sadly, I simply cannot afford.

I recently read that "injured workers are treated worse than criminals". As an injured worker, I am facing homelessness, severe financial hardship causing possible bankruptcy, inability to pay credit contracts and financial commitments, inability to afford food and ongoing living expenses. At least convicted criminals are offered food, shelter, access to legal assistance, medical services and protection of their human rights. Injured workers are not offered any of these things, instead having to rely on charity and the kindness of friends and family, which is not always present or available.

I understand why many victims of workplace bullying choose to commit suicide, as their basic human rights are ignored and abused by the Workcover system and by the corporate capitalistic interests of employers and insurance companies.

There is little to no support for injured workers in general, but adding to the distress, victims of workplace bullying are additionally labelled as whistleblowers and treated as a liability.

My recommendations on this issue of workplace bullying are that:

- Insurance agents should NOT be managing injured worker's claims. The claims decisions should be made by TRULY independent medical examiners, and by TRULY independent circumstance investigators, not by people hired and paid by a profit driven corporate entity with no human interest or values.

- During the medical examinations, the examiner should be fully informed of the injured worker's medical and work history. In complex cases (such as mine) the examiner should take more time to conduct a thorough and rigorous examination, taking into account the full medical history. An independent

witness to this examination MUST be present, in order to protect the injured worker and preserve the transparency of the medical examiner's report.

- Independent Worksafe investigations into workplace bullying complaints should be immediately launched upon receiving bullying complaints. More clear and detailed definitions of workplace bullying should be easily accessible on the Worksafe website.

- Complaints of workplace bullying should be recorded by an independent body, in order to build a list and history of workplace bullies.

- Employers who bully or allow bullying should be subjected to mandatory fines, prosecution, counselling and education about the devastating effect of their behaviour on their victims, and the financial cost to employers.

- Either victims of workplace bullying or an independent support service for victims of bullying should receive the money from the fines as financial compensation for their injury, and/or to provide emergency support for victims.

- Denial of bullying should not be considered proof that events did not occur, as often the bullying takes place secretly and with no witnesses, deliberately so the bully can later accuse the victim of lying.

- Victims of workplace bullying should be immediately referred for free counselling.

- Injured workers returning to work should be closely monitored for a much longer period of time, especially under the WISE program, as they are very vulnerable and indicate a huge risk factor.

- Employers who exploit, abuse and bully injured workers should be subjected to the heaviest penalties as this constitutes a severe breach of human rights and in my opinion shows a dangerous sociopathic tendency.

- Entities such as JOBWATCH should be given sufficient funding to assist and properly advise workers.

- Advocacy for injured workers should be widely available and advertised to the public, so that injured workers are informed of their options.

- Work colleagues of injured workers should be obliged to participate in circumstance investigations. Their silence could indicate their fear of being dismissed or bullied in the workplace. Bullies rely on that silence to get away with their unreasonable behaviour.

- Any funds misused by exploitation of the WISE program should be recovered from the employer and used to establish a "Workplace bullying victim advocacy and support service". Injured workers unable to find employment could be employed by this service and use their experience to assist and educate others.

- High School students should be educated on Worksafe and Workcover matters, before they enter the workforce.

- Each injured worker, whether their Workcover claim has been successful or not, should be immediately designated a Worksafe case manager, who can assist them through the process, provide support, information, advocacy and access to medical and legal services, financial assistance and immediate referral to emergency financial support.

- A permanent financial fund be established to provide immediate emergency financial relief for all injured workers and in particular victims of workplace bullying.

I sincerely hope that this inquiry will look honestly at this endemic problem and find some solutions to protect and empower the victims, as well as adequately discipline and educate the bullies. Prevention is better than cure. Too many innocent people have their lives ruined by a system that further injures and victimises them.

Yours Sincerely,

THE FOLLOWING INFORMATION IS CONFIDENTIAL:

My name, address, phone and email details at the top right hand corner on the front page of this letter.