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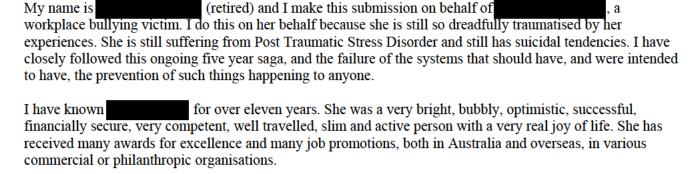
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Submission to the House of Representatives Committee Inquiry into Workplace Bullying

Condemnation of an Employer and WorkSafe in a Bullying Case



Today she is a suicidal recluse and has been reduced to penury by workplace bullying and the subsequent involvement of various Public Authorities.

I was very pleased to read that the Federal Government was holding this Inquiry, and also pleased that I was a person who could make a submission. I have come to realise that it will take a major attitudinal shift by Governments, Public Authorities, Major and Minor employers, Company Directors, executives and senior staff to bring about the very important changes needed to reduce and preferably eliminate the very high incidence of workplace bullying.

During my working life I spent 18 years in industry followed by over 30 years in private practice. Never have I been confronted by such an utter systemic failure by an employer and the Authority responsible for stopping workplace bullying. Never have I seen such utter destruction wrought on a human being by others, both in the workplace, and from the Authority charged with protecting the rights of the victim.

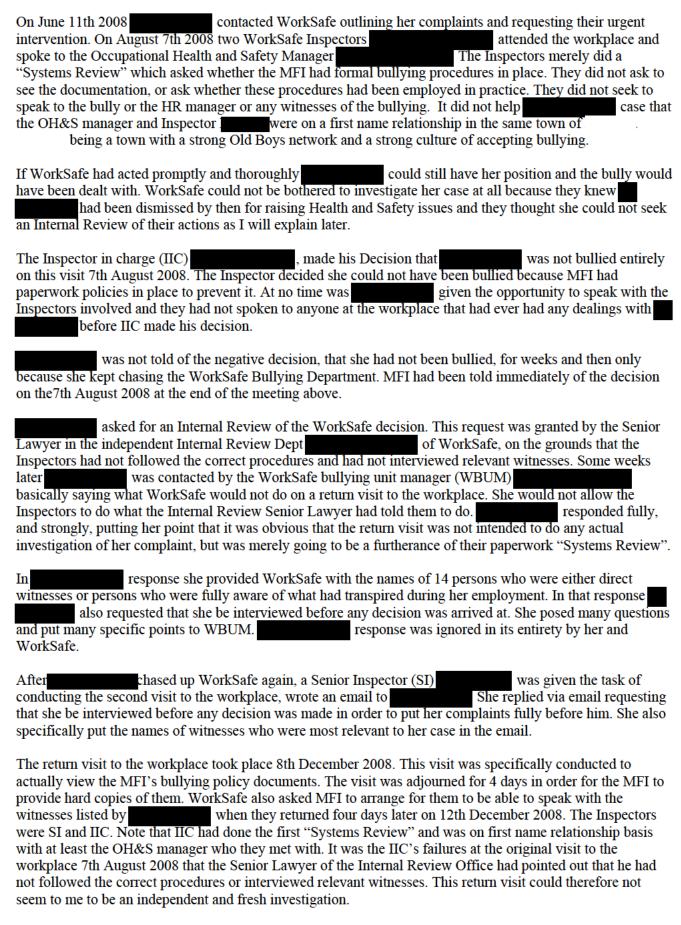
From experiences that I have often witnessed, I have come to understand not only the massive unnecessary wasted cost to business but also the massive unnecessary human cost to innocent individuals caused by workplace bullying.

I will seek to address many of the terms of reference of the Inquiry. However I ask for your forbearance since most of what I write is what this victim of bullying has experienced and the failures of the institutions created to protect her. I will summarise later what I sincerely hope are your Committee's aspirations that have brought this Inquiry into place. I will humbly put my point of view as to how I think how these aspirations may be achieved.

I seek to outline experiences that have destroyed her and turned her into the suicidal person she is now. There are many individuals, organisations and Authorities that hold various levels of responsibility for the scourge of bullying. I will try to deal with each these that have so affected over the past five years under the following general headings.

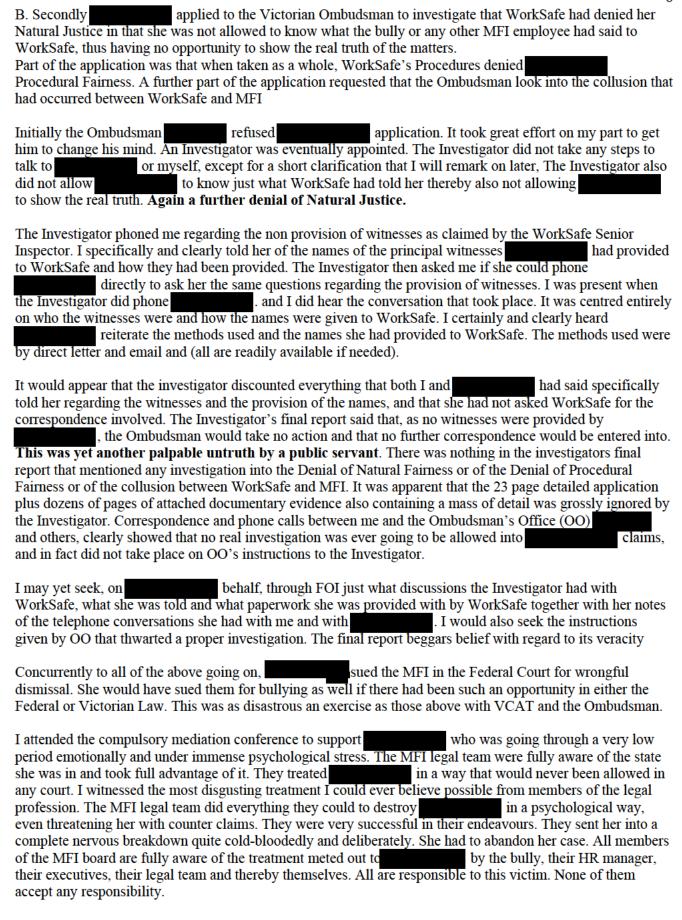
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The actual workplace bullying that took place at of one of our Major Financial Institutions (MFI), namely the
The subsequent treatment given to her by the Management, Executives and Directors of MFI.
The involvement of WorkSafe Victoria
Her legal attempts to get redress through the Federal Courts.
Her legal attempts to seek redress through the Victorian Civil and Administrative Tribunal (VCAT)
Her attempts to seek redress through the Victorian Ombudsman.
Her attempts to seek help from various Victorian Government Parliamentarians and Ministers
Nobody in this whole experience who was, and still are responsible, has made even the minutest effort to right the wrongs done to some still are responsible, has made even the minutest effort to right the wrongs done to some still are responsible, has made even the minutest effort to right the wrongs done to some still are responsible, has made even the minutest effort to right the wrongs done to some still are responsible, has made even the minutest effort to right the wrongs done to some still are responsible, has made even the minutest effort to right the wrongs done to some still are responsible, has made even the minutest effort to right the wrongs done to some still are responsible, has made even the minutest effort to right the wrongs done to some still are responsible, has made even the minutest effort to right the wrongs done to some still are responsible, has made even the minutest effort to right the wrongs done to some still are responsible, has made even the minutest effort to right the wrongs done to some still are responsible, has made even the minutest effort to right the wrongs done to some still are responsible, has made even the minutest effort to right the wrongs done to some still are responsible, has made even the minutest effort to right the wrongs done to some still are responsible, has made even the minutest effort to right the wrongs done to some still are responsible, has made even the minutest effort to right the wrongs done to some still are responsible, has made even the minutest effort to right the wrongs done to some still are responsible, has made even the minutest effort to right the wrongs done to some still are responsible to the wrongs done to some still are responsible to the wrongs done to some still are responsible to the wrongs done to some still are responsible to the wrongs done to some still are responsible to the wrongs done to some still are responsible to the wrongs done to some still are responsible to the wrongs done to some still are responsible to the wrongs do
Unfortunately some of these areas are so intertwined that it has been too difficult for me to separate one from another in a meaningful and systematic nature. However I will try.
was employed under a Partnership Agreement between the and MFI as the State Coordinator of the program. This partnership was called and was managed by and a Junior CEO (JCEO) of MFI. The agreement was set up to promote the involvement by young people in their own local communities. The Government paid for her salary but she was physically located in the MFI's offices in Bendigo where she worked under the supposed care of the JCEO.
Over the next 22 months this JCEO bullied her endlessly. The Manager was fully aware of the way was being treated and had told her that she needed to be moved away from the JCEO for her health's sake. The manager chose to do nothing about it. Practically every definition of "Bullying" found in WorkSafe's publications and MFI's Policy Documents were breached by the JCEO. That is "Repeated unreasonable behaviour directed toward an employee that creates a risk to health and safety"
This bullying affected enormously requiring medical and psychological help and she needed to take all her sick leave entitlements (under medical certification). All of her accrued annual leave was used when her sick leave entitlements ran out. She repeatedly asked the Human Resources Manager at MFI to move her from the bullying environment. The HR Manager would not do this. The JCEO had a protective screen around her based on the relationship she was having with a senior Executive of MFI. The JCEO was untouchable. Then made a formal written complaint on the 28th May 2008 regarding the bullying behaviour to Human Resources department of MFI.
After nearly2 weeks she had received no response to her formal complaint from the HR Department. In desperation reported the bullying to WorkSafe Victoria 11th June 2008. Despite their rapid response policy in serious injury cases (which to WorkSafe means only physical injury) where they are required to visit the workplace within 24 hours. It took WorkSafe TWO WHOLE MONTHS to attend the workplace and speak face to face with the MFI. WorkSafe did not understand that bullying can cause serious psychological injury and that any time delay in acting could make the effects of the injury worse. In case it did.
This 'grace' time (given to MFI by WorkSafe) gave MFI the time to rapidly concoct Constructed Dismissal that occurred on 23rd June 2008 under the guise that her position was redundant. This was a spurious redundancy. In fact the position continued under the partnership and was filled by the bully's own mother who was employed the very next day after psychological injury caused by the bullying and WorkSafe's failure she has not been able to work ever since. She has needed ongoing psychological care and often been on suicide watch by family and friends.

Returning to WorkSafe and its treatment of



The only person from the list of witnesses that had provided and the Inspectors met with was the JCEO who was not questioned but read from a written pre-prepared statement (according to WorkSafe notes of the visit obtained under FOI). Three other major and very direct witnesses either were not available or chose not to be interviewed. Despite having the authority under the OH&S Act 2004, these persons were not pursued as were the other 10 remaining witnesses not pursued. At the conclusion of this visit SI told MFI that the original decision IIC would not be overturned. Two affidavits obtained later show conclusively that SI had told them this on 12th December 2008
was not told of SI's new decision and continued to press for an interview before the decision was made so that she could clearly put her case before him as she had constantly requested.
Eventually the SI agreed to meet with at this meeting. This meeting opened by asking SI if he had already made his decision. He categorically said no. A direct and provable untruth from SI. She also asked who he spoken to at the second visit, giving him the names of the three most direct and relevant witnesses. On being pressed he admitted he had spoken only to the JCEO, saying others were not available or refused to speak to him. As the meeting progressed it became very obvious that was not going to be allowed the opportunity to present her side of the bullying claims and it was obvious the meeting had only taken place so that WorkSafe could say such a meeting had occurred.
In WorkSafe documents later obtained under a FOI request SI has also stated that provided any witnesses. Another direct and provable untruth from SI . At a later date (WorkSafe CEO) about these untruths by the Senior Inspector but he was disinterested.
was not told of the second decision for some 5 weeks and was very distressed and appalled. She went deeper into depression. Once she had recovered a little she put in a request for a second Internal Review. WorkSafe chose to refuse this request on the grounds that as she was no longer employed, she was therefore not eligible to obtain an Internal Review under the eligibility criteria in the OH&S Act 2004. Note the WorkSafe Internal Review lawyers Office has the discretion to allow such a request.
then applied to VCAT and was granted a hearing before Deputy President Despite having thoroughly researched and cogent arguments relating to the quirks in the wording and interpretation of the Victorian OH&S Act 2004. She was unsuccessful, mainly because a precedent had been set by a previous VCAT decision by another Tribunal member in an entirely different WorkSafe case. It was deemed irrelevant that had made her initial approach to WorkSafe before she was Constructively Dismissed as above.
Again was flattened psychologically. Later she wrote to the WorkSafe Compliance Coordinator regarding the failure of the WorkSafe Inspectors to properly investigate her bullying complaint and other issues. This was a very thorough document filling 9 typewritten pages. No reply has ever been received although many weeks later was told that the Compliance Coordinator had not replied because her complaint did not involve the actions of the Inspectors. Yet another direct and provable untruth by WorkSafe.
Because of this lack of response after several weeks phoned the WorkSafe executive responsible for the Bullying Department . His initial response was "how did you get this far, most people are basket cases by now". To this meant that WorkSafe had managed to destroy others before her. Another quote by him was "we do not do well in the area of bullying". He did however say he would expedite a response from the Compliance Coordinator.
On the advice of her treating Psychologist Psychologist with her letter of complaint to the Compliance Coordinator. He responded much later saying as a result of an internal meeting at WorkSafe that he had been asked to organise a meeting with to "sort things out". The meeting was subsequently arranged by him for 3rd April 2009. tried to get an agenda for this meeting together with a list of the participants. Neither of these eventuated. Only that the new Manager of the WorkSafe Bullying Department (MWBD) said she had "drawn the short straw".

and her scribe. Only and are represented WorkSafe.
As a meeting to "sort things out" it was a disaster. With MWBD refusing point blank to answer any relevant questions or to allow any proper investigation of case or into the Inspectors failures to do their job properly. On being pressed MWBD said that she would only re-open the case if could provide actual "HARD FORENSIC EVIDENCE". We all took this to mean Video Taping of events or medically visual evidence such as photographs or Xrays etc. that showed physical injury had occurred. Evidence of psychological injury, attested by psychologist and medical reports were not sufficient "hard forensic evidence" in her eyes. Unfortunately we do not yet have the means to photograph or Xray psychological injuries. has often said to she wished the JCEO had physically assaulted and injured her. WorkSafe may then had have acted appropriately.
MWBD also would not entertain the idea that the employer was in breach of many other requirements of the OH&S act 2004 such as removing from a harmful work environment, or monitoring her health situation, or other record keeping failures, sacking for raising Health and Safety issues. MWBD said that should take this last issue to Industrial Relations despite this issue being clearly in WorkSafe's responsibly under their charter, the OH&S Act 2004
I cannot remember the date, but and I attended a public workshop meeting in Ballarat that WorkSafe had an organised for interested persons to explain the WorkSafe publications on the subject of workplace bullying. Most of the attendees were involved in their firms OH&S Departments. The only thing that we got out of this workshop was a quote from the person who was responsible for writing these publications, she said words to the effect that the bullying usually stops when the person leaves the job. An open imprimatur for any employer to make life so difficult for the victims that they would resign!!!!!
WorkSafe has never employed any Specialist Inspector or Manager in its bullying department with any qualifications in the area of psychological injuries. They have many Specialists in physical injuries in areas such as electrical, building, mining, chemical etc. etc;
Despite over 10 thousand cases reported to them over the past few years WorkSafe has never prosecuted any psychological bullying case to conclusion. They have prosecuted approximately ten firms in cases involving serious physical bullying. These are WorkSafe's own figures. In the words of a WorkSafe executive, in an unrelated case, "cannot do anything unless there is blood on the floor" This epitomises WorkSafe's attitude that Psychological Injury is not Serious Injury. If you cannot see it, it cannot be serious. WorkSafe certainly pays lip service towards psychological injury in its publications but does nothing about it in practice on behalf of victims. The proof is in the pudding so to speak. The fact that psychological injury was included in the Victorian OH&S Act 2004 seems to have eluded WorkSafe.
In her desperation for some semblance of justice did two other things.
A. Firstly she put an application to the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) claiming that WorkSafe had discriminated against her on three grounds. That they had treated her differently because her injury was psychological rather than physical. That she was treated differently because she was a female. That she was treated differently because she was over the age of 24. WorkSafe has different procedures if the bullied victim is under 24.
VEOHRC agreed with application and referred the matter to VCAT for decision. At VCAT WorkSafe was successful in arguing that they had no jurisdiction because they did not provide a "service" under the Equal Opportunity Act and therefore could not be charged with discrimination. The Judge (Lavaca) said that if he allowed the case to go ahead VCAT would be swamped with similar cases. What he was saying to WorkSafe was that they could discriminate against each and everyone seeking their help with his blessing. By inference this same ruling now applies to every other Victorian Public Authority. The Judge's ruling went far beyond any previous ruling that had previously meant that only activities that were of a quasi judicial decision making nature were exempt from being discriminatory. It meant that any public authority could discriminate in any way it chose towards any member of the public who sought their services as they did in case. The Victorian Minister responsible for WorkSafe, has shown no concern about this state of affairs.



Various Victorian Politici	ans including the relevant Ministers ha	ve been kept apprised of what has been
happening to	over the past 4 years. All have simpl	y ignored all correspondence to them. Perhaps
if I had to single out one of	of them, the Minister for WorkSafe,	, would be the worst for his
lack of concern. He was a	lso made very aware of	poor treatment at the hands of WorkSafe by
another parliamentarian,	, in an adjournment d	ebate some nine months ago but has still not
responded.	is only a bullying victim after all!!!!!!!	

WorkSafe avoided all responsibility to someone who only asked them to do their job and put the OH&S Act into effect. Tacitly they support the employers every time in cases of psychological bullying reported to them.

The Ombudsman also failed her unbelievably by not doing the job it was created for in looking into the activities of Authorities such as WorkSafe on the public's behalf. To them it was not in the public interest to expose the inadequacies, lies and failures of WorkSafe in dealing with a very straight forward case of workplace bullying.

All of the foregoing addresses issues that concern the terms of reference of this Inquiry particularly in the areas of regulatory, administrative ...gaps etc; in the systems. has fallen through all of them to her detriment. It also clearly shows the current regulatory frame works are woefully inadequate as a deterrent against workplace Bullying. The only deterrent is towards the innocent victim from reporting the bullying because of the nasty ramifications they encounter.

Many others in workplace knew of what had happened to her and were very fearful of raising any bullying issues with management. Other's had already left their jobs because of bullying.

At present there is no incentive for employers to do anything about preventing and responding to psychological bullying in the workplace when the Authority responsible does so little to sanction them when they are clearly guilty. In the only case I can find to date where WorkSafe has prosecuted an employer (a very recent case), the company was not prosecuted because they were responsible for psychological bullying of its staff but because they did not have the correct policies and procedures in place to deal with workplace psychological bullying. A mere \$6000 fine. The fate and distress of the victims was not and has never been a consideration to WorkSafe.

If this Inquiry finds there is a real need to deal with workplace bullying from the top down, then all the existing laws, systems and Authorities responsible must be changed. At present there is no actual anti bullying law in Australia. There is no satisfactory way for a victim to be heard and redressed for the injuries suffered. There is no one to turn to. They are just cast adrift and treated as industrial waste and become burden on the taxpayer instead of a valued tax contributor.

The inclusion of bullying into the Victorian Stalking Law is now shown to be a complete and utter failure now that bullying is outside the jurisdiction of WorkSafe and in the hands of the Victorian Police who say they have no resources available to do this and no staff trained in psychological injuries.

It is of interest that both WorkSafe and the Victorian Police have many current internal workplace bullying cases levelled against themselves. According to WorkSafe figures there are thousands of cases of workplace bullying reported to them each year and yet they have a zero track record in the prosecution area regarding psychological bullying.

Humbly I would like to suggest the following initiatives to the Parliamentary Committee

An over arching Federal criminal law should be enacted to deal specifically and only with workplace bullying of both a physical or psychological nature. Any breaches of this law must have high penalties to act as a real deterrent. Any Federal law must also look after the financial and health interests of the victims, which are currently totally ignored. WorkSafe must be excluded from any association with any new law based on their total failure to date in the area of workplace bullying and particularly in the area of psychological bullying.

I believe there must be compulsory training, on a regular basis, of employers and employees regarding workplace bullying. This could be done by community based organisations but must include people who have been bullied, together with members of the psychiatric and psychological professions. For all the reasons above, WorkSafe must not be allowed to be any part of this.

All of this should be funded by the employers who after all are initially responsible for allowing bullying in the first place. In the end they will benefit greatly as will the forgotten people, the victims. Funds could also be withdrawn from the various state WorkSafe authorities that have so badly failed since they would have no further involvement in workplace bullying investigation or prosecution.

nurther involvement in workplace bullying investigation or prosecution.
I have strived to tell nothing but the truth in this submission. There are reams of documentary paperwork available to justify what I have written if required. Anything else such as phone calls etc; can be given on sworn affidavit by
Finally I realise that I have made some very contentious and emotive remarks. This is because I have deep feelings of contempt for the deceit, dishonesty and the do not care attitudes meted out to by all concerned. If the truth hurts anyone's sensitivity, it cannot be compared with the hurt and damage they have singly and collectively done to
I respectfully ask that you will allow this submission to proceed in spite of its strength of feeling and general tone.
I would also like to appear at the Oral Inquiry to be held later if deemed appropriate by the Committee. At this point of time I am not sure if would be strong enough to appear. I can only hope so.
and I give permission for this submission to appear on your website for public viewing if the Committee approves its publication.
Thank you for this opportunity to write to you on behalf of agrees with it in its entirety.
Yours respectfully