

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

**QUESTIONS ON NOTICE
Additional Estimates 2009-2010**

Agency - Fair Work Ombudsman

DEEWR Question No. EW0874_10

Senator Cameron provided in writing.

Question

PHOENIXING

If the Fair Work Ombudsman is aware of the practice of "pheonixing", have any investigations into the practice been undertaken by the FWO or alternatively, have any referrals been made to other authorities, for example, the ATO?

Answer

The Fair Work Ombudsman has provided the following response.

Activities concerning phoenixing do not fall under the jurisdiction of the Fair Work Ombudsman.

When instituting legal proceedings against a company for breaches of Commonwealth workplace relations laws, it is the general practice of the Fair Work Ombudsman to also institute proceedings against the specific individuals responsible for the alleged unlawful conduct.

In circumstance where a company subject to a litigation is placed into administration or liquidation, the Fair Work Ombudsman is able to continue the proceedings against the individual involved in carrying out the alleged unlawful conduct.

In circumstances where the Fair Work Ombudsman suspects an issue of concern regarding possible breaches of the *Corporations Act 2001*, it is referred to the Australian Securities and Investments Commission.

The Fair Work Ombudsman is not able to report on the number of any such referrals to the Australian Securities and Investment Commission.