

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

**QUESTIONS ON NOTICE
Supplementary Budget Estimates 2011-2012**

Agency - Australian Building and Construction Commission

DEEWR Question No. EW0753_12

Senator Abetz asked on 19 October 2011 , Hansard page 58

Question

ABCC - Contractors

Senator ABETZ: It has been suggested—and this may assist you in identifying the case—that there was a letter dated 27 May from the ABCC, and it provided advice of the outcome of its investigation. The letter states that the ABCC's opinion was that the contractors are in fact employees, and I am advised that there are limited reasons and no evidence is provided to support that finding except for a table of boxes that includes generalised statements such as, 'Labourers require supervision and contractors are engaged to provide direct labour or supervision, so it is not likely the worker would subcontract his own work.' There was no individual reference to each employee. The HIA member, I am told, pays the super guarantee levy, superannuation contributions, long-service leave contributions and worker's compensation. I have been advised that in this case these payments have been taken into account by the ABCC as indicia of employment statutory obligations. But I am advised that they are equally applicable to contractors, and long-service leave has been paid only after CFMEU pressure to do so. Mr Campbell: I will struggle to traverse the nature of that investigation given that it is possibly ongoing. CHAIR: And, if it is ongoing, it is a bit problematic for us. Mr Campbell: So perhaps I can take it on notice to have a look at the matter. Senator ABETZ: All right.

Answer

The Office of the Australian Building and Construction Commissioner has provided the following response:

The ABCC can confirm it has an ongoing investigation involving a WA commercial painting business being represented by the HIA.