

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

**QUESTIONS ON NOTICE
Supplementary Budget Estimates 2012-2013**

Agency - Fair Work Ombudsman

DEEWR Question No. EW0610_13

Senator Abetz asked on 17 October 2012 , Hansard page 35

"Refers to previous DEEWR Question No EW0181_13".

Question

FWO - relates to EW0181_13 - Enforceable undertakings in respect of sham contracting

Senator ABETZ: Can I just confirm, for answer no. 181, that in 2010-11 no enforceable undertakings were entered into in respect of sham contracting. Mr Wilson: Yes, we can confirm that. Senator ABETZ: Were there any prosecutions that year? Mr Wilson: In sham contracting? Senator ABETZ: Yes. Mr Wilson: I believe so. Mr O'Shea: Which calendar year or financial year are you asking about? Senator ABETZ: 2010-11, referring to answer No. 181. Just going through it, I am not sure that I properly covered that. Mr Wilson: I think we should take that on notice. Senator ABETZ: Fair enough.

Answer

The Fair Work Ombudsman provided the following response.

The Fair Work Ombudsman (FWO) can confirm that in the 2010-11 financial year, no investigations were undertaken into sham contracting that resulted in an enforceable undertaking.

To be clear, one investigation into sham contracting that was undertaken in 2009/2010 resulted in an enforceable undertaking (EU) being entered into with Signature Portrait Studios Pty Ltd. The enforceable undertaking was entered into on 28 March 2011.

The following table outlines all litigations and EUs in relation to sham contracting investigated by the FWO and the status of each activity as at 5 November 2012:

	Date filed or EU signed	Status
Land Choice Pty Ltd (NSW Real Estate)	Litigation filed 19 June 2009	Decision handed down 17 December 2009
Contracting Plus Pty Ltd	Litigation filed 24 December 2009	Decision handed down 10 March 2011
Maclean Bay (operating Diamond Island Resort in Tasmania)	Litigation filed 24 December 2009	Active

	Date filed or EU signed	Status
Contracting Solutions Australia Pty Ltd (CSA), Labour Contract Solutions, Blue Steel Corporation Pty Ltd, Michael Wright and Darryl Lenkic	Litigation filed 15 October 2010	Active
Signature Portrait Studios Pty Ltd	EU signed 28 March 2011	EU available on fairwork.gov.au
TSA Telco	Litigation filed 20 April 2011	Active
Quest South Perth Holdings Pty Ltd (Quest), Contracting Solutions Pty Ltd (Contracting Solutions)	Litigation filed 27 May 2011	Active
FWO v John Mineeff (Villtruck)	Litigation filed 27 June 2011	Decision handed down 27 March 2012
Metro Northern Enterprises Pty Ltd	Litigation filed 29 June 2011	Active
Lovers of Property Pty Ltd, ICS Real Estate Pty Ltd, William Fraser and Diana Cartwright	Litigation filed 19 December 2011	Active
Mr Bryan Bedington	Litigation filed 30 April 2012	Active
Happy Cabby Pty Ltd and Graeme Thomas Paff	Litigation filed 25 May 2012	Active
Jooine (Investment) Pty Ltd and Jae Kye Lee	Litigation filed 31 May 2012	Active

Please note, on 5 June 2012 FWO initiated legal action against E.A Fuller & Sons Pty Ltd. This matter is currently active and has been classified as a wages and conditions matter as it contains allegations of underpayment of wages in relation to five employees. However, it is noted that the matter also contains allegations of sham contracting in relation to two employees.

FWOs predecessor agency also undertook the following two litigations:

	Date filed or EU signed	Status
BM Sydney Building Materials Pty Ltd	Litigation filed 21 May 2007	Decision handed down 16 August 2007
Centennial Financial Services	Litigation filed 17 December 2008	Decision handed down 21 June 2011