

**INQUIRY INTO INQUIRY INTO THE OPERATIONS OF
THE HOME BUILDING SERVICE**

Organisation:

Name: Mr and Mrs Boules

Telephone:

Date received: 15/11/2006

Please note the authors have retracted the request for confidentiality for this submission, however, it has been kept partially confidential by resolution of the Committee.

**Submission
to the
General Purpose Standing
Committee No.4**

Into

**The Operations of the Home
Building Service**

By

Mr. And Mrs. K Boules

Private and Confidential

SUBMISSION to
General Purpose Standing Committee No.4

NAME: KAMAL BOULES

ADDRESS:

Phone/fax:

Email:

I, Kamal Boules in the state of New South Wales of _____, do and solemnly swear and sincerely declare the following statements are true and I am happy to give further sworn evidence orally answering any questions the committee may ask.

Home Warranty Insurance Scheme

My claim is not a last resort FAI – HIH victim.

On 2nd May 1998 when I signed my contract to build my house with my licensed builder for \$132,830.00 I was issued a certificate of HOW Insurance policy No.1804170940 for a maximum cover of \$200,000.00. I felt very confident that firstly I had a licensed builder and he knew how to build a house by the one we saw at the exhibition and secondly I was covered by a mandatory insurance policy for any defective work that my licensed builder may do. Unfortunately I was not saved in both occasions as my builder failed to provide me with a safe and secure home. The builder did not build my house as per council D/A, my family and I with three young children have suffered for 7 years and spent large sums of money approx \$45,000.00 (which I could hardly afford) in independent reports and approx \$15,000.00 in solicitors fees to prove the serious defective work. The defective work was estimated at \$308,000.00 to rectify. As very well spoken "We are victims and from victims we become accused and pay for crimes we did not commit".

The Department of Fair Trading was supposed to monitor both HIH and the builder, with policies and procedures that they have set in place. Obviously those same policy and procedures are not enough to defend the innocent consumer who comes in blindfolded and has absolutely no control of the whole situation from the beginning. The Department hired the incorrect insurance company and must be held responsible for their actions, they are dangerously playing with peoples lives. Many times I have been in a desperate situation over this whole debacle whether it be financially mentally or physically and have not known what to do, I have felt that the thousands of letters that I have written have fallen on deaf ears and I want to see the light at the end of the tunnel as I have paid an unjust sentence of seven years heartache and pain. The best years of my family's life from birth through childhood has been taken away and all that will be remembered is desperation and despair. I do not want to suffer any longer and I want to see that the victims of this whole debacle get what is rightfully theirs.

History of my insurance claim

FAI was taken over by HIH in early 1999

HIH went into liquidation on 15 March 2001

Strategic Claims Solutions took over August 2002 and I lodged my insurance claim with Strategic Solutions.

9 August 2002 I lodged a complaint to the Office of Fair Trading attaching Alfred Frasca's building report demonstrating serious structural defects and non compliances.

12 August 2002 I received a response from the Department of Fair Trading stating:-
 "Where residential building work is or should be covered by Home Warranty Insurance from a private Insurance provider, the department does not have a role in resolving disputes. The Department's role in home warranty matters is to deal with breaches on the Home Building Act and to provide consumers with information about the appropriate ways to resolve their dispute....." further:-
 "Your complaint will be referred to the Department's Building Investigation Branch for assessment of breaches of the Home Building Act....."

23 August 2002 received a letter from the Department of Fair Trading stating that they will investigate the actions of the builder and that it has no bearing whatsoever on the resolution of the dispute.

11 October 2002 Peter Verinder from Acumen Consulting Group Assessor for Strategic Solutions inspected the house to assess the defective work.

29 October 2002 Acumen consulting group Pty Ltd wrote a letter attaching a scope of work and ordering the builder to carry out the rectification work.

25 November 2002 [redacted] to Acumen Consulting advising that they wish to have their engineer inspect and report on the structural adequacy etc.

26 November 2002 Acumen letter to Boules advising to give access to [redacted] and their engineer for inspection.

December 2002 We had not heard from the Department of Fair Trading it had been 4 months since their advise, we wrote a letter dated 12 December 2002 requesting a response.

20 January 2003 The Department of Fair Trading responded by stating that an inspector will be sent to assess and investigate if the department should take disciplinary action against on 15 January 2003.

15 January 2003 Garry Christie from the Department of Fair Trading came on site to inspect the defective work and I was also present. On this day Mr Christie advised that he would have to return.

24 February 2003 Garry Christie returned to our property, because he wanted a more detailed look at the defective work.

9 September 2003 We were concerned about the amount of time taken by the Department of Fair Trading in relation to the investigation of our complaint. It had been seven months since the last inspection by Garry Christie from the Department of Fair Trading. Therefore we wrote a letter to the commissioner of Fair Trading.

15 January 2004 List of justified and unjustified items were sent to us. If we did not agree with the items we had 30 days to appeal with the CTTT.

8 February 2004 Kamal Boules replied to above letter. OFT letter stating the corporation.

12 February 2004 CTTT does not agree with the findings of Frasca, but is prepared to meet the cost of new plans and specifications to be prepared on the basis of the approved scope of works.

18 February 2004 Replied to above letter.

2 September 2004 OFT Letter stating that the option we agreed on was BIG Corp engages a structural engineer to review all current technical reports.....to develop a suitable and final scope of works. Mr Charles Rickard was selected.

1 November 2004 OFT Letter stating that Rickard's report, considering the findings of Frasca's report, was attached.

18 November 2004 Response from Alfred Frasca to the report of Charles Rickard.

30 November 2004 Continual written communications over justified and unjustified items.

7 December 2004 Letter from Rickard to Frasca concerning certain defects. The debate goes on.....

3 February 2005 Arranged a meeting for 11th Feb to hopefully come to a satisfactory conclusion. Attending would be myself, Onorati, Frasca and Rickard.

21 February 2005 Letter from Rickard stating that meeting was held between Boules, Frasca, Onorati and himself. Budget was suggested on all relevant defects.

27 April 2005 Letter sent to registrar at CTTT stating that we would like to adjourn the hearing due to negotiations with Mr Le Compte OFT.

28 September 2005 Points of claim prepared by Vince Darcy.

19 October 2005 Letter from D'Arcy Sloman stating that the insurance's solicitor and himself appeared at the Tribunal and agreed on 5 orders all to do with serving points of claims on both sides.

27 February 2006 Letter from D'Arcy Sloman stating that the insurance's solicitor, builders solicitor and himself were present. 4 orders agreed on all to do with serving points of defence.

1 May 2006 Matter heard in the Tribunal with 4 orders agreed on concerning estoppel, costs of ancillary and new hearing date.

19 May 2006 Letter written from myself to Steve Griffin regarding a few incorrect statements that he had made regarding my case including the fact that it was already settled.

30 May 2006 Letter received from Michael Cooper stating that he would like to have a "without prejudice meeting" to discuss our insurance claim. Also on this letter Michael Cooper apologised for any incorrect information that was given to the BARG committee.

16 June 2006 Letter sent from myself to Steve Griffin expressing my disgust and annoyance regarding the fact that he has not replied to my detailed letter of the 19 May 2006.

20 June 2006 Letter sent to Steve Griffin requesting that Irene Onorati President of BARG be present at a meeting with the Department.

23 June 2006 Meeting was held between myself, Irene Onorati and Charles Rickard. Apparently Mr Rickard had come to inspect the alleged new defects of which there were none. Where on earth did they get this information?

- 30 June 2006 Letter from Strategic Claims Solutions stating that they will no longer be looking into our claim as their contract with the Office of Fair Trading has expired.
- 22 August 2006 Letter from D'Arcy Sloman to Abbott Tout Solicitors requesting to put the case on hold awaiting the decision in the Honeywood v's Munnings case.
- 28 August 2006 Reply letter from Abbott Tout Solicitors stating that they do not wish to delay the case any longer.
- 1 September 2006 OFT letter to advise recent decision by NSW court of appeal in the matter of Honeywood V's Munnings. The corporation has interpreted this decision to mean that you had your course of action and your rights have been extinguished.
- 25 September 2006 Letter sent from myself to Steve Griffin trying to open his eyes and ears as he is lying very low and not making himself heard. Again my desperation was expressed to him.
- 31 October 2006 Letter received from Department of Fair Trading stating that the case of Munnings and Honeywood has been determined and our claim will be re-assessed.

Summary: Construction of a 2 Storey Project Home

My wife and I inspected a flawless exhibition home in Hoxton Park by “ ”.
In March 1998 we signed a contract with to build our 2 storey project home in Kellyville. We trusted that they would build our home as we had seen it at their exhibition.

We believed and trusted implicitly that the licenced builders we had signed a contract with, had the skills and qualifications to do residential building work as the Office of Fair Trading had given the company a licence. After we had signed, the contract work was delayed by for 2 ½ months.

During construction we noticed certain defects, I was forced to pay for an independent building consultant to assess and inspect the constructed work. The builder fixed some but not all of the defects. The whole time an employee of by the name of was overseeing/supervising the construction when he was not even licenced. was the one who had the licence and he was sitting behind a desk in the office. What sort of business are they running?

Our building consultant convinced us to move into the house and deal with the defective works later. He said that if we were to do it the other way around it would be some time before being able to move in. So we paid for the house in full and moved in June 1999.

For two years a dispute continued to escalate regarding defective work to our home. Major defective work which had been identified by our inspector was not being resolved.

On 1st June 2000 We lodged a complaint with the Fair Trading Tribunal. We provided them with a list of defects prepared by “Sydney Building Reports” (Our building inspector and consultant).

After almost one year with little assistance or advice from the Fair Trading Tribunal we received a letter on the 8th May 2001 stating:-

1. Ordered that the respondent of Pay the applicant Kamal Boules of the sum of \$690.00 on or before 8 June 2001.
2. As an interim order it is ordered that the respondent deliver a structural engineer's certificate and water proofing certificate to the applicant at the residence of the applicant at on or before 8 June 2001.
3. Leave is granted for either party to apply for this matter to be re-listed in Relation to the interim order but only up until the 8 July 2001 when this interim order becomes a final order of this Tribunal.

4. Directed that if such an application is made the person making the application serve on the Tribunal and all other parties a letter in which it is stated:
- a) who failed to comply with the order, and
 - b) how that person failed to comply, and
 - c) what orders the applicant is seeking when the matter is re-listed, and
 - d) copies of any quotes or receipts intended to be presented at the hearing

We were devastated and very angry. We had spent \$7000.00 to commission an Independent Building Inspector to assess and inspect the constructed building work and identify all the defective work in a report.

At the Tribunal a ridiculous decision was made for _____ to pay the sum of \$690.00 to rectify the extreme amounts of defects. I rejected the cheque from _____ and decided to take the case further. I then received a phone call from the registrar to say that if I was not happy with the outcome that I could make a new application. I thought that this would be a waste of time so I did not take up the offer.

A friend then told me about a building consultant by the name of Andrew Phillips. Now as you would know by reading above this was the second building consultant that I had hired as I required a second opinion. Andrew Phillips cost me approx \$4000.00 to inspect and report on the dwelling. He then tried to come to some agreement with _____ regarding the defective items and was going nowhere fast. He then suggested that I contact BARG. BARG have done a wonderful job in supporting and guiding me through this trying time when fighting for something that is extremely important to my family and I. I have been attending regular meetings with BARG since 2002 and they have become like a family, they are a not for profit organization who cares so much about each and every one of their members and all members are willing to help whenever possible. No amount of money can equate to the time and effort that this team at BARG put in _____

Through BARG in 2002 I hired the services of Alfred Frasca & Associates Structural Engineers. Alfred Frasca also did a thorough inspection of the dwelling and drafted a report. After much communications between Frasca and the Department over two years, the Department had finally decided in January 2004 on a list of Justified and Unjustified items. They were also prepared to and did pay for a scope of works to be drawn up by Frasca for which I had three thorough quotes organised.

A few months later in September 2004 the Department of Fair Trading decides to commission the Services of Charles Rickard who was also a Structural Engineer to do his own inspection and report taking into consideration the findings of Frasca's report. Finally in November 2004 Rickard released his findings and a debate went on for several months between engineers regarding the defects. Meanwhile the dollar signs are going up and we are witnessing a ping pong match all at my unaffordable expense.

A meeting was then held in February 2005 between Rickard, Frasca, Onorati and myself and a budget was decided on all agreed defects. Again a meeting was held in June 2006 between Rickard, Onorati and myself and this time settlement as well as other issues were discussed.

I add mention to the fact that all this time from 1999 to present my home has been open to all. Starting with Builders, Contractors, Building Inspectors, Structural Engineers, Department of Fair Trading employees, Professionals such as Mytek, Solicitors, Current affairs reporters, BARG members and the public. Since we started our family we have not been able to settle and have had no privacy at all. Our life is unwillingly on display and it is extremely hard to move on. No amount of money could pay for the prying eyes that have been in our home since the start of this debacle, if only I could turn back time. You don't miss things until they are gone and I want our family's privacy returned and to move forward from here would be a blessing.

In March 2006 BARG had a meeting with staff from the Department of Fair Trading and a couple of incorrect remarks were made regarding my case. In their eyes my case had been closed and apparently I was offered a settlement when in fact I had never heard such a thing. Where they got this information from is beyond anything I can imagine, considering that they deal with my solicitors and I so often you would think that they would have nightmares about me and my home. Instead I have totally been wiped of the list and my case has been closed. Does this not display that I am only a statistic in the HIH collapse debacle and that no one really cares?

In July 2006 a "without prejudice meeting" was arranged between
and myself for which I thought was to come to some settlement but no, it was to interrogate me a little further to see if they could play with me like a puppet on a string.

Dealing with the Department of Fair Trading is the most unpleasant experience I have ever had and I do not wish it upon my worst enemy. They have made it extremely difficult for me to feel comfortable if ever another situation rose and I would have to deal with them again. They are there to support the consumers and in my opinion they have only worked against me. Is it not enough evidence that they fined the builder to say that they are guilty and the defective work should be rectified or the consumer should be payed compensation. What is required from my family and many others to prove the faulty workmanship of builders? Why do they continue to be let off with a smack on the hand while we suffer? This is not just!

a) The builder licencing SystemBuilder:

Built our home in 1998 – 1999
 Licence No.
 Issued: 12/04/94 current until 12/04/2007

Supervisors:

(1)

Licence No.
 Issued 23/03/1994 up until 22/02/2001

(2)

Licence No.
 Issued 22/02/2001 up until 04/2007

NB Mr [redacted] was a licenced supervisor for [redacted] during construction of our home in 1998 – 1999, but it was [redacted] who was on site during construction carrying out a supervisor's role although he was not licenced. Please refer to OFT licence check herewith attached.

Now with BARG's help we have discovered how to search the HBS website to show that Mr [redacted] had been a supervisor for many companies:-

1. [redacted] Licence No. [redacted]
 Issued 20/09/1993 – 29/09/1994
 [redacted] was Supervisor and Director of the above mentioned company. The licence of this company expired one year later.
2. [redacted] Licence No. [redacted]
 Issued 05/10/2000
Expired 05/10/2006
 This licence held a condition:-
 "only for contracts not requiring Home Warranty Insurance from 25/11/2003 – 05/10/2006".
 [redacted] was the Supervisor and Director of this company.
3. [redacted] Licence No. [redacted]
 Issued 29/03/2001 – current.
 Mr [redacted] was the Supervisor and Director of this company.