

Supplementary  
Submission  
No 32a

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

**Name:** Mr Andris Blums

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Partially Confidential

The Hon Ms R Parker MLC

Chair, GPSC2

Inquiry, Home Building Service

Dear Ms Parker

This submission expands my verbal evidence of 2/11/07 to the committee .

I re iterate my opening statement that we are here dealing with historic ,long standing systemic issue of rorting consumer protection by building industry bodies and there associate business entities and partners from the 70's onwards .Conflict of interest is the rule in all Australian States with the only exception, the Qld model

It is my understanding that the committee intends to finalise its report if possible within a month .If that is the case ,a further submission by me based on a review of the inquiries hansard ,in particular the sworn evidence by the OFT officers will not be in time to be considered but will be sent direct to ICAC

My hurried final verbal comment on 2/11 mentioned a referral to ICAC .That was predicated in part on the 2 documents I tabled for the committee . The first being a letter from ASIC to a Mr Phil Dwyer ,dated 30/9/07 and the second 2 adjournment debates by Mr Kim Booth ,MLA Tasmania .

Further grounds for referral to ICAC is the NSW OFT document ' NSW Home Warranty Insurance Scheme - Information on the scheme as at 31/3/07 ' . An update to 30/6/07 , a supposedly more comprehensive version is due in 2 weeks the inquiry was informed by OFT as part of the sworn evidence given by the OFT officers .

The OFT document re BWI financials as at 31/3/07 is a disgrace .Its sole purpose is to deceive and conceal the true financial reality of BWI , A cursory analysis by any independent professional will readily confirm that

As an example no insurance industry professional will swallow the claim that this is a long tail product .The facts are claims are lodged before contract completion or with in a matter of a month or 2 on contract completion in almost a 100% of claims .In Qld and the old HGF in Vic 90% or more of these claims would be settled within a year or so .A very small % age ,maybe 1% or 2 % would not be finalised within 18 months ,but the settlement figure would be accurately estimated at that stage if the claim is proved to be valid .

Long tail in its classic form is workers compensation for asbestos victims ,were it is 30 or 40 years down the track to diagnosis and the onset of illness or say with company directors professional liability insurance were the claimable event may not become public knowledge for many years after the event .BWI is not long tail in insurance industry terminology. Its more akin to a car crash and storm damage

My calculations based on publicly available data leads me to conclude that very little of the gross national premiums for the BWI product after all on costs are included ,not

excluded as in the OFT document are actually paid out in claims to consumers .Maybe as little as \$5 to 6 million maximum is paid to claimants nationally .

Yet commissions paid to the HIA to resell this product on Vero's behalf is 15% and is reported in The Australian [3/10 ] as in the order of \$20 to \$30 million per annum .That is the HIA financial benefit exceeds the benefit that consumers receive from a total national premium pool estimated at \$350 to \$400 million including all on costs including builders margin of 10 % to 15 %

The cost of this insurance is the charge out cost to the consumer by the builder ,including the builders margin .That cost is not in the \$735 claimed as at 31/3/07 by the NSW OFT but more in the order of in excess of \$3000 average in NSW per policy issued . That is the actual cost the consumer pays to the builder is the cost of BWI not some fictitious cost that is a statistical corruption and nonsense accepted by the OFT and published in the public domain

This significant cost for junk insurance [Choice -ABC 7.30 report 11/1/07 ] effects housing affordability and does not represent value for money when compared to the Qld system

The OFT officers evidence in my estimation was either deliberate political obstification or exhibited a serious deficiency in there understanding of the issues and thus they have mislead the inquiry or possibly perjured themselves .The OFT officers stated clearly that builders warranty insurance was subject to federal regulation to a question by Ms Hale and stated if i recall correctly was subject to oversight as a consumer protection product by ASIC,ACCC and APRA .

I put it to the committee that based on my evidence as tabled on 2/11 that is not the case ,that ASIC ,ACCC and APRA regulate BWI This can be confirmed by reference to ASIC's letter of ,30/9/07 ,ringing Louise Sylvan ,deputy commissioner ACCC for consumer issues and the fact that APRA as of this date collects no specific or discrete information re BWI . The recent NSW OFT memorandum with APRA is only for the purposes of exchanging financial stability information re the insurers to prevent a future HHH situation arising and is not as I am advised even specific to BWI or the NSW BWI market as such

The OFT officers correctly claim that they only implement policy and that is not an issue .The issue is their current comments [from memory , awaiting hansard ]re the operation of the Qld model and there expectation that with possible further enhancement of the NSW scheme early in 08 that the NSW scheme will be equal to if not superior to the Qld model .

Those assertions are not evidence and until such time as the OFT produces for the inquiry a cost benefit /social impact comparison between the Qld model and the private insurers NSW model based on a detailed analysis of all the financial information currently in the public domain ,not secret commercial in confidence data ,the OFT evidence has no validity and must be rejected in toto by the committee based on any objective evidentiary criteria

In fact if a detailed cost benefit /social impact comparison of Qld and NSW as at 2/11/07 and proposed 08 was prepared I have no hesitation in stating Qld would win hands down in terms of premium costs and benefits to claimants and builders .Can the OFT officers explain how a private insurer last resort system can be enhanced to be equal to a first resort system while remaining a last resort system. Its a non sequitar

Ask yourselves the question why has Vero /Mr Jameson declined to give evidence to the inquiry and put the audited management financials into the public domain. of Vero and his board are not inclined to place the facts into the public domain as those facts would reveal the full extent of the statutory consumer fraud with its origins in the collapse of HIH.

The issue of BWI as a scam,a rort ,a fraud has at least in part been discussed at board meetings by directors and no action to terminate this fraud has been taken .This failure to act at board level in the face of TV and print story's describing BWI as a statutory fraud ,a rort and a scam with no public repudiation of the media story's or presentation of their viewpoint speaks volumes that the allegations have substance

Why kill the cash cow ,described by some in the industry as money for jam by defending in the public domain the indefensible .

Vero company officers as part of company policy threaten and coerce homeowners and builders with legal threats and action as a means of NOT settling claims as that is the more profitable commercial outcome .The private insurance culture is to simple spend \$10000 resisting the claim or have the builder do so on there behalf be the claim \$30000 or \$100000 or whatever . Its cheaper than paying up

In my case threatened me with defamation in his personal capacity as a servant of Vero using Vero resources on 1/12/06 .The upshot of that threat is that even without relying on parliamentary privilege ,[ Kim booth 9/07?]. I can state unequivocally under qualified legal privilege since early 07 that BWI is a fraud .

I challenge to sue me re my comments on the public record re BWI . If they wish they can issue a SLAPP's writ for defamation ,that is a frighteners stop writ on me , But to do so will require them to release via the court discovery process the full audited BWI financials into the public domain .A fact they are aware of and is not in there commercial interest

In fact the insurers will use the legal system to their advantage if they are not held to account not only to avoid paying claims and silencing critics but also to avoid scrutiny of there commercial practises in general .

Mr Booth MLA ,refers to Senator Coonan in the papers I tabled Senator Coonan was the receiptent of a BWI claim payment . It is a fact that to date the insurer has not claimed reimbursement from the builder for the payout to Senator Coonan via the builders indemnity that the insurer hold.

It is alleged that non recovery from the builder was part of a deal . At deal that it is alleged by Mr Booth MLA was consumated about the same time Senaror Coonan as the responsible minister for the Financial Services Act.amended the corporations

regulation 7.1.12 [2] removing BWI from regulatory oversight of ASIC, ACCC and APRA

That was not the case in WA where the builder was required to reimburse the insurer Vero in full on the basis of the indemnity and a summary judgement to that effect was sought and granted to Vero. On appeal to Justice Eaton the judgement was set aside on the grounds that there was a triable issue re builders indemnities held by the insurers and their legality.

Currently Vero have not collected the indemnity amount from the WA builder and apparently they have no intention of taking the issue to trial in case the judgement is adverse and indemnities are illegal and the current business model is adversely compromised

It's cheaper for Vero to avoid a judgement and more profitable to continue to claim reimbursement against builders indemnities than have the issue of their legality determined by the courts

Pilot building advisory service. I reiterate my comments and add that such bodies particularly if truly independent, with a broad mandate and well funded are not appreciated by vested commercial interests and existing players in the area, eg OFT.

The unsubstantiated claim by vested interests will be that the functions of a strong and independent building advisory service are already in part done elsewhere in the system and duplication is unnecessary. You will find if you truly investigate that such self-serving statements are not true or at best incidental to reality at the work face

Why is it not possible, ask the question to find independent consumer voices not only on builders warranty but consumer issues in general. The simple answer is because the current systems do not nurture them.

Instead the system, to use the current Pentagonese re the media in war zones, 'embeds' vested interests in the organisational structure of the OFT and previously in the 80's and earlier in the Building Service Corp., and so it has always been. Once the vested groups are embedded by alchemy they are transformed with a new dual task of representing consumers or should we say their victims.

These are systemic failures that the Qld system eliminates by excluding vested interests from its structures. This exclusion is another factor which with the proposed but no detail as yet enhancement of the NSW BWI system in 08 will not be included in any revised 08 version. That deficiency will still leave NSW at the mercy of unaccountable commercial interests. Or did I miss something at the public hearings and can we expect the revised 08 NSW model to also include a fully audited financial report to Parliament by the insurers as is the case with the Qld model and no embedded vested interests within and without the system or in the oversight functions within OFT.

If you ask or expect Vero to match or exceed the consumer /builder benefits of Qld as indicated will be the case probably in 08 by OFT officers on 2/11, please advise. The historical evidence is that builders and their insurers have always found it commercially to their financial benefit to rot the system by being embedded in the policy process with in govt and resisting paying even valid claims as that is the more profitable option.

For the insurers, to resist claims, is cheaper than paying out as they can claim on the basis of their formalised positions of influence that they are acting in the public interest. The Qld system eliminates this problem.

It should be clear from the inquiry transcript of 2/11 that when OFT officers made claims re the proposed enhanced NSW system to be introduced in 08 that if the 08 system without qualification does not meet or exceeds the consumer /industry benefits and accountability provisions of Qld then at best the committee was misled or perjury under oath occurred as part of an ongoing attempt to defend and justify, a failed policy. The current BWI fraud

Death, Disappearance and Insolvency are a minor by-product at best within the Qld system. Accountability, Defects and Security of builder payment are the keystones in Qld. The only way for the OFT officers to justify their claims to the committee that as of early 08 they hope to have enhanced the current NSW system to be equivalent to or superior to the Qld model is to scrap the current NSW model and transition to the Qld system.

Some would argue that the Qld model is a variation of the old NSW Builders Service Corporation, so what, the BSC was riddled and infiltrated by the MBA and other vested interests and was a captured regulator. That is not the case with the Qld model.

Yours Andris Blums 8/11/07