INQUIRY INTO NSW WORKERS COMPENSATION SCHEME

Organisation: Name suppressed

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Submission from to the Joint Select Committee on the NSW Workers Compensation Scheme (May 2012)

Background on Our Business

We are a Sydney based SME in the fencing wholesaling, manufacturing and installation industry which has been operating since 1982. In 2006 we acquired another Sydney based fencing manufacturer / wholesalers and merged it with our existing business. We operate from three branches all located in Sydney. Our business is mainly NSW based but we do install fencing in other states. We have a wide customer base that includes residential, commercial, construction and government entities. Our workforce currently consists of 45 direct employees and 12 contract installation teams.

We are finding the market in NSW extremely depressed. The number of NSW government fencing tenders has noticeably decreased in the last year. This has coincided with the residential construction market in NSW stalling at the bottom of the cycle.

Despite the tough market, we have held our direct employee workforce relatively constant since 2006. We have enhanced our productivity and are constantly attempting to eliminate excess costs from our business. There are some business costs, that despite our best endeavours, we cannot easily control. These are basically government related charges.

The 2006 acquisition resulted in additional payroll taxes and workers compensation premiums being paid by the merged entity relative to the two individual businesses that were paying prior to the merger. The additional payroll tax was due to the loss of one threshold and the workers compensation was due the industry classifications. The combined business operation remained the same with the same workforce, same customers and same markets, yet the payroll tax and workers compensation premiums were higher.

Comments on the NSW Workers Compensation Scheme from Our Viewpoint

As an employer, we are in full agreement with the key objectives of Workers Compensation Scheme of promoting better health outcomes and return to work outcomes for injured workers. We operate safe workplaces and hold all employees (management and staff) responsible to work in a safe and effective manner. Also as an employer, we believe we have social obligations to the community and by employing

people we can enable the economy to grow. We are obviously bound by financial constraints; however we are always prepared to engage new employees to assist to our business. In recent times, most of our new employees have come from the ranks of the unemployed.

We have begun to question the aim of the Scheme and whether Government is aware of some questionable outcomes of the Scheme. We believe that we have had a number of false claims made by past employees. These claims are totally funded by us as the employer but we are unable to control the cost once the claim has been lodged. There is no onus of proof on the employee to substantiate the claim and our insurer seems reluctant to engage in background investigation of suspicious claims. For example, we recently employed a person as a machine operator. After four weeks at work, the employee claimed he had sustained an injury at work three weeks prior. When questioned on why he failed to report the injury, the employee claimed that he feared he would lose his job. Although his work duties did not have him doing any repetitive tasks, his initial workcover medical certificate stated that it was a work related repetitive strain injury. We asked our insurers not to proceed with the claim but they informed us that they were bound by legislation and had to proceed. We attended an appointment with the employee, our insurers and the employee's doctor in which the doctor admitted that anything could have aggravated this pre-existing repetitive strain condition. Yet the claim still continued. The employee had provided us, the doctor and the insurer a false residential address, stating that he lived 5km from work when in fact he lived more than 40 km from work. Despite us providing him with suitable duties to work he abandoned his employment and is now in contact with our insurers requesting a payout for his work injury. If this was not a Workcover claim, the employee would have at best made a visit to a doctor and rested. Instead he has had appointments with specialists, physicians and physiotherapists. The claim has currently costs us and is still not closed off.

The issues that we believe are highlighted with this claim regarding the Scheme are:

- · No onus on the treating doctor to prove the injury is work related.
- Insurer wants to limit their costs and is reluctant to investigate other issues.
- · Over servicing of the condition because there is no budgetary constraint.
- All costs are borne by the employer whether the claim is true or false.
- No disincentive for an employee to lodge a false claim.
- No obligation for an employee making a false claim to pay restitution.

Summary

We do not believe that the NSW Workers Compensation Scheme in its current form is financial sustainable. As employers, we cannot continue to bear the current Scheme's premiums and will have to review ways to reduce this cost to our business by reducing our workforce. This will impact of future employment growth.

We would support amendments to the scheme that would significantly reduce the false claims and overservicing of injured workers. This would enable the Scheme to reduce costs and still achieve its objective of promoting better health outcomes and return to work outcomes for injured workers.