

FIRST REVIEW OF THE WORKERS COMPENSATION SCHEME

Organisation: Acacia Products
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acacia products
PTY LTD
CUSTOM PLASTIC EXTRUSIONS



Thursday, September 15, 2016

The Chair
Standing Committee on Law & Justice
Parliament House
Macquarie Street
SYDNEY NSW 2000

We are a small manufacturing company in Wetherill Park, New South Wales.
During the last two years we have had a running battle with Allianz who manage our Workers Compensation policy.

We have had two claims. We believe both claims to be fraudulent and have supplied evidence in the form of Affidavits. Allianz has refused to study the evidence.

We have had discussions with the fraud department WIRO, SIRO and Icare. All have been very sympathetic but explained that the system favours the worker, and there is no control over the Insurance Company. Allianz do not even have to provide me with information regarding a claim and are free to accept any claim whether real or not. In fact there is no procedure for a company to dispute a claim.

Attached is a précis of our dispute which will expose a weakness in the system allowing the Insurance Companies to make money at will and charge it to our company account.

We have no input and no right of inquiry let alone appeal.

The system is a licence to print money for the Insurance Company.
It is not even in their interest to ascertain whether the accident is real or indeed happened in the work place.

Sincerely

Richard Pattison
Managing Director
Acacia Products Pty Ltd
Ph: 02 9756 6077

The Chair

Standing Committee on Law & Justice

NSW Parliament

I am the Managing Director of Acacia Products Pty Ltd (Acacia) which is a private company based in Wetherill Park NSW. Acacia manufactures extruded plastics for the lighting industry, home improvement, fencing and filtration industries. Acacia employees between 20 and 25 full time employees and has survived for over 30 years in the difficult Australian manufacturing environment by manufacturing high value innovative profiles and sheet. Examples are the diffusers in most Australian Trains where we are the major supplier and the filtration media for the aquariums, Ocean Park in Hong Kong and Sentosa in Singapore.

In a relatively high cost environment of Western Sydney we are providing for jobs and flow on benefits to a number of local industries. I support the current Government policy of reducing red tape and removing barriers for industry to operate efficiently.

I wish to express my concerns regarding the current Workcover Scheme and in particular the employers' rights in the process of insurance claims.

Acacia has been subject to two claims in the past two years which were both handled by the one Scheme Agent, Allianz. In regards to both cases we have significant concerns as to how the claim was handled.

These concerns are heightened because there is no right for the employer to request a review in any circumstance. There is no independent body with whom we could lodge an appeal or request to review.

We feel we have grounds for a reasonable complaint but there is simply no one to complain to with any authority to compel an insurer to act properly or even reasonably.

I will not specify the facts in both of these two cases and every error we perceive the Scheme Agent had made therein. However, the types of matters that we feel should be subject to independent review would include;

- 1) Decision by the insurer to accept liability. The employee currently has the right to request a review but the employer does not. That challenge includes the right to proceed to an independent Tribunal.
- 2) Decision by the insurer that an injury was in fact a work place injury. Such decisions cannot be challenged by the employer regardless of how much, and how credible the evidence they may have.
- 3) Decision by the insurer to continue the claim on "consequential" or "subsequent" injuries. One of the two claims featured an ongoing list of injuries, he had hurt a thumb, now due to "overuse" of his other hand he received treatment for his other

thumb, than he claimed he had carpal tunnel syndrome. In each case the Scheme Agent just continued assuming each injury was in fact the one "work place injury", when in fact, it was very questionable if the injuries were either genuine, let alone related.

- 4) Procrastination by the agent in having employees signed off as fit for work and returned to work. One of the two recent cases featured a written prognosis by the rehabilitation provider and hand specialist in Sept 2015 that the employee should be signed off as fit for work. Unfortunately we were made to continue making payments until May 2016 because the Scheme Agent delayed the independent medical review and the GP continued to provide work cover certificates. This more than doubled the size of the claim.
- 5) Overly assertive representation by the insurance agent. My staff were subject to veiled threats and insinuations regarding the provision of information and the timeliness of payments that were not reasonable. Specifically that there would be legal consequences for the staff member individually for the non provision of PIAWE paperwork and immediate payments to the claimant.
- 6) The non provision of information by the Scheme Agent to the employer. We have not received any information regarding the second of these two claims for over three weeks, despite previous correspondence suggesting a "functional assessment" would be carried out within two weeks.
- 7) The non provision of information by the agent to the employer when the employee has been terminated. The Scheme Agent has accepted liability for a former employee of ours based on an Independent Medical Review. We are not allowed to view that review because of "privacy legislation" protecting our former employee.

This review we understand does not state that the injury occurred at our workplace rather that the complaint is consistent with the incident reported by the employee. The report apparently accepts the employees' doctor medical certificate which limits him to lifting less than 5kg and working less than five hours per day. We understand neither report explains how he managed to work full time for three months after the date of the alleged incident. We believe that if we cannot review these medical reports that an independent body must be available to review them.

In both cases the Scheme Agent have been dismissive of our concerns. They have acted as if they are not subject to review and have complete power and authority over us as the employer.

This is particularly frustrating because it is us as employers who fund the scheme. We have been informed that the costs of both these claims will be added to our existing premium over the next three years.

Such a system is punitive upon employers.

We have made premium payments for 30 years and now have to fund the cost of the claims as well. Still we have no right to review and with respect to these two claims believe we are paying the full costs ourselves.

But we get no right to review ourselves.

All of the above seems particular harsh on a small business like ours. We are not large enough to employ internal legal counsel, have a human resources department and have specialised consultants on standby for such events.

We have not been duly informed of recent changes to the legislation.

There has been insufficient training and education programs available for small business owners and managers. The current legislation and framework seems to assume a well informed and represented employer who needs to be kept in check to assist and uninformed and ill equipped employee. However is small business really in this position?

We respectfully request that the committee consider the formation of an independent review authority with power to ensure that Scheme Agents act properly and have regard to the concerns of the small employer.

We believe such a body would assist the Agents to act in a more consistent matter and facilitate a more efficient system. I note that such right to review is available for business in other states, making them more attractive for business to do business there. If New South Wales wants to drive its economy and create jobs it cannot have a Workcover scheme that imposes an unfair burden on its employers. Punitive premiums on small businesses who provide the backbone for jobs in the state don't help anyone.

The NSW government needs to remedy the current inefficiencies and provide transparency and accountability for both the employers and the employees.

In the case of Acacia we have already paid an adjusted premium \$12,000 for last years' (2015) premium

I am sure we will incur a rise in premium for this year if indeed we could find out what the new premium is.

All this due to Allianz's incompetence who have cart-blanche to breach the protocols wherever they like and add the result to Acacia's account.

Acacia do not believe that either of the claims were anything but fabrications and when we informed Allianz it fell on deaf ears.

Below are Acacias' premiums.

How can we possibly survive?

There is a 350% projected increase since 2012 and we have nowhere to appeal. Should this continue Acacia will be forced to close its doors within in the not too distant future.

Acacia's Premiums

Year ending 30th June 2012 Actual	\$48,666.32
Year ending 30th June 2013 Actual	\$54,338.49 – increase 12.5%
Year ending 30th June 2014 Actual	\$71,263.62 – increase 31%
Year ending 30th June 2015 Actual	\$95,604.92 (Includes \$12,092.78 adjusted premium) - increase 34%

Richard Pattison

Managing Director