

CORRECTED VERSION

ECONOMIC DEVELOPMENT COMMITTEE

Inquiry into Labour Hire Employment in Victoria

Melbourne — 4 October 2004

Members

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Witnesses

Mr C. Mazzotta, Director; Troubleshooters Available;

Mr P. Bosa, Chief Executive Officer, Troubleshooters Available; and

Ms J. Meinen, Director, Labour Force, Australia.

The CHAIR — Welcome. You have already made a submission some time ago. We thank you for that. You would have seen the terms of reference of the inquiry. We are fairly well advanced in our public hearings; this is probably the fifth day. We have also had some informal meetings and loads of submissions as well.

Public hearings are covered by parliamentary privilege, so what you say here today is privileged. We will send you a transcript of the proceedings and you will be able to correct it and send it back to us before it is made public at some later stage. If there is any written material you want to present today as well, the committee's usual practice is to adopt submissions and make them publicly available on its web site. I understand you do not have anything that you wish to add today. I just need to be clear on that.

We did receive your earlier material and we are pleased that you could make it along today. We will let you speak in turn for a few minutes and then we will go to questions and answers.

Mr MAZZOTTA — Troubleshooters Available is an agency which provides construction personnel to the building industry and has been in operation for over 30 years. We have had extensive experience in understanding our clients' and contractors' needs for their building projects. From a client's perspective, utilising contract labour provides flexibility, reduces administrative workloads and offers other significant economic advantages. In short, it enables their businesses to concentrate on their fields of expertise, regardless of the peaks and troughs normally associated with the building industry. Troubleshooters Available is recognised by all relevant government authorities as a legitimate agency administering all statutory requirements and is quality accredited.

We provide construction personnel to all aspects of the construction industry in the commercial, industrial, civil and domestic sectors. Our construction personnel range from your skilled labourers to your senior site supervisors and all trades in between, such as carpenters, shopfitters, cabinet-makers, plasterers and bricklayers. One of our growth areas has been occupational health and safety representatives on site. Contractors enjoy the flexibility of hours, days and weeks, which enables them to meet family obligations and pursue interests outside their working arrangements. It is also a useful backstop to those who normally operate their own businesses and find themselves between jobs.

The variety of projects and tasks is also appealing and enables the contractors to enhance and further develop their skills. The skills learned and knowledge gained on one project are easily transferred to another project. Builders are able to increase their workforce in times of peak and unexpected activity. They are able to reduce their work force during down time. Labour hire is also a remedy for staff absenteeism and annual leave. Some builders prefer to concentrate on their area of expertise and do not wish to waste their valuable time and money in recruiting the right person and complying with government responsibilities. All our contractors are covered for WorkCover, public liability and superannuation.

Troubleshooters Available has always taken an exceptionally proactive approach to occupational health and safety. All our contractors have been accredited with the Red Card induction, which is conducted by the Master Builders Association of Victoria. All contractors are also taken through an in-house safety awareness induction and video. In addition, our client sites are visited by either me, one of our occupational health and safety representatives or an independent company to ensure that our clients are providing a safe working environment, for not only our contractors but all construction workers on the building site. Further to this, we have commenced a business called Site Safety Audits Victoria, which audits construction sites to ensure that builders are complying with safety practices.

Troubleshooters Available grew very quickly during the 1980s. That growth, and the fact that Troubleshooters Available were working on commercial building sites in Melbourne avowing themselves to be contractors, did not endear them to the building unions, which commenced trenchant opposition to the presence of Troubleshooters Available contractors on building sites. Eventually that opposition, which was causing substantial loss to Troubleshooters Available, was challenged by Troubleshooters Available in the Federal Court against the building unions, the primary one being the then Building Workers' Industrial Union, now the CFMEU. That action alleged that the unions had breached section 45D of the Trade Practices Act, in that their actions in requiring builders to remove Troubleshooters Available contractors from building sites were secondary boycotts and in breach of that section of the act.

The core decision which the Federal Court had to make was whether at common law Troubleshooters Available workers were contractors or employees. Mr Justice Woodward delivered the trial judgment in the case and on

24 August 1989 determined that Troubleshooters Available workers were contractors and not employees of anyone. The then Building Workers Industrial Union appealed the trial judgment before the Full Court of the Federal Court, which unanimously dismissed the appeal. Labour hire is not new; it has been around for countless years. Labour hire will continue to provide flexibility and opportunities for both businesses and workers well into the future.

The CHAIR — Thank you, Chris. Does anyone else want to add anything to that?

Ms MEINEN — I wonder if we need to separate Labour Force Australia from Troubleshooters?

The CHAIR — I was going to ask about the relationship. I think I understand it but it might help if you were to offer an opinion on that.

Mr BOSA — I started Troubleshooters, which was a forerunner, in 1973. After our battles with the unions and computer software developments, I decided to license what we do. We have 40-odd agencies around the country and we are right across the board. We have doctors, dentist, nurses, school teachers, bus drivers, meatworkers — and the list goes on.

The CHAIR — Am I right in understanding that Labour Force Australia is a wholly-owned subsidiary of Troubleshooters?

Mr BOSA — No, it is a separate company. Troubleshooters laid out the blueprint, if you like. Then we replicated it and transferred it right across the board to other industries

The CHAIR — Labour Force Australia manages the delivery and management of the programs by which the contractors can be managed, in a sense?

Mr BOSA — I call it a licence system. It is like a franchise system but it is not a franchise. A franchise of McDonald's is a McDonald's. With a licence, people operate under their own name and style. We ensure that all the due diligence and the rates they pay the workers — simple things like that — are right, that they meet their statutory obligations and they are good people.

The CHAIR — I think that probably covers that point. I want to start with some questions. When I read through your two submissions last December I was not quite sure about the classifications you were offering. It might seem a minor point but one of the things that we are going to have to do in this report is indicate what labour hire covers.

We have had a number of people make different submissions. In the Troubleshooters' submission you indicate that there are two forms of labour hire. I did not have any trouble with those. But on the second page of the Labour Force submission there are three dot points. I understood the first and third of those but it reads 'Labour hire workers can fall under one of three categories', the second of which is:

The employee of the end user with the labour hire company acting as an agent of the end user.

I got a big confused reading that.

Ms MEINEN — There is a scenario that occurs within labour hire, whereby the actual agency acts as an agent for the worker and may charge on a commission basis for placement of that worker's services. So it does set it aside from the agency where there are two parties independent. The middle one refers to the type of agency that does collect a commission from the employee worker on the way through. The worker may make a direct billing to the end user, if you like.

The CHAIR — I was not familiar with it being presented that way, that's all.

Ms MEINEN — A lot of nursing agencies used to work in the fashion. I think they still do.

Mr BOSA — There was a training mob that had all trades and they would send people out. The worker used to have to charge you, collect the money and then he would get half of it. He would have to take the cheque back to the agency. So they were getting the commission in reverse, rather than getting it out of the end user and paying the worker, and taking the risk.

The CHAIR — If I can use the expression, it is probably a more old-fashioned way of labour hire than would be the case today?

Mr BOSA — No, it is more a commission arrangement. It is not really labour hire as such; it is a different kind of commission arrangement. It is like your grey army used to be. They would say, 'Give us \$500 a year and we'll advertise for you and get you all the work', which is also based on bad economics. This is just based on, 'We'll stand for all the advertising. Here are the rates you have to charge but you have to get the cheque back to the company — and you have to make sure you get the cheque, bring it back here and then we'll give you a cheque for what we owe you'. It is not very prevalent. It is too hard to administer and it is not a good idea. It never appealed to me.

The CHAIR — No-one else had raised it in their definitions. I appreciate the fact you have. It has just thrown me a bit.

Mr BOWDEN — I would like to clarify one aspect, and that is the relationship between the worker, the agency and the on-site clients. Is the worker an independent contractor and is there a written agreement between themselves and the agency that is specific in its clauses, and is there a separate agreement between the agency and the host site?

Mr MAZZOTTA — Yes.

Mr BOWDEN — The only question is: is the compensation to the worker at a fixed hourly rate which is negotiated between the agency and the worker or between the agency and the host employer?

Mr BOSA — Both ways. Troubleshooters just sets the rate: that is what we are paying and that is what we are charging. You do all of your studies, the EBAs, awards, and all that — what the workers want, what the market place will bear. So that is the rate we pay. That is our commercial rate. A lot of labour hire goes into different industries which have different awards, different EBAs and different statutory requirements. Then it is a question of negotiation.

You go to the end user and say, 'We need to pay the workers this'. There is usually a little bit of argy-bargy and then we have to pay all the on-costs. The payroll tax, workers comp. and all the other things that are attached to the payment of workers, we will take care of. Yes, there is a bit of negotiation but it is done between the agency and the worker, and the agency and the end user.

Mr BOWDEN — Just to complete the question: then a figure is arrived at, whatever it may be, and then the worker puts in a form of claim for X hours at X site, and so many hours at such-and-such a rate, and then that is the compensation paid to the worker and that is the end of the responsibility in terms of the agency in the compensation factor?

Mr BOSA — If the job is all done and everybody is happy, it is like any contract: 'The contract's finished; there's your money; thank you; you did a good job, beauty! Hope to use you soon'.

Mr BOWDEN — So it is 10 hours at X rate.

Ms MEINEN — It is not always an hourly rate.

Mr BOSA — It can be on a piece rate. It can be a composition. There can be a variety of structures, the way the rates are built up.

Mr BOWDEN — And the basis of that is that the worker is an independent contractor?

Ms MEINEN — That is right.

Mr BOSA — And you always have to equal the statutory minimums. Like if there is a prevailing industrial agreement you have to ensure the money you are paying the worker has to be at least equivalent or better, otherwise you fall down.

Mr BOWDEN — So all that is included in the agreed rate?

Ms MEINEN — Yes.

Mr BOSA — Yes.

Mr ATKINSON — One of the concerns that people have expressed about the whole concept of labour hire is that it contributes to a diminished commitment to training and skills development. I notice that one of the comments that you made about advantages was that workers could in fact get experience in other fields and could develop certain skills — I think that is an extension of what you said in your opening remarks.

That is paraphrasing, but I think there was that implication in some of those remarks. I am interested in your comments in terms of the contribution of the labour hire industry, particularly your own group of companies' experience and practices in relation to training and skills development, and perhaps your observations of where that might go in the future.

Mr BOSA — Skills is one of the things you get in lots of industries. We recently had an experience of helping people become skilled in mushroom picking. How do you do that? Mushroom picking might not appear to be brain science, but there are quite a lot of techniques in it. If you do it the wrong way you ruin the product. It was quite an holistic experience at this place because they had an enormous WorkCover rate and it was blowing out. We went down there and our WorkCover rate came down. We went in, did a site assessment and we brought in a whole range of issues both in OHS training and in upskilling the workers.

From my point of view at Troubleshooters, I have seen a lot of people come along as rural labour and end up as the site foreman. Some people end up as builders and very rich people by just starting off and understanding that the way we work, if you work harder, smarter and better you can earn more. Through a process of negotiation some people come back to us and say, 'I am very good at this. I am top of my class. I want more money'. We then go and negotiate with the client. They get more money because they are that good and that skilled. I have watched a lot of people — and how can I say it? We give them a lot of flexibility. There was recent hazard training, which included quite a range of training. We have a vested interest in helping people because the more we can add value to the people, the better the business is, the longer you can sustain it and the more money people earn. Everybody wins.

Mr ATKINSON — Can you remind me of what your commitment was to apprenticeships and traineeships across the group of companies?

Mr MAZZOTTA — Going back some time we did start a company called Apprentices Available. The reason for doing that was that there were big shortages in certain trades — cabinet-makers and joiners are dying trades at the moment for some reason. We have given our clients an indication that we want to get up there and running with Apprenticeships Available.

Mr BOSA — Is it fair to say that we have been spectacularly unsuccessful? We flogged it out to the industry. We wanted to set up a separate company to try and help with the skill and get apprentices up and running.

Mr ATKINSON — I would like to tease that out a bit more. I am interested in your experience with that because I thought it was a good initiative on your part.

Mr BOSA — We thought that by introducing it in the labour hire medium it would help people where they wanted apprentices, but you have to get the end-user to want apprentices. When I had my house renovated I met a lot of different tradies and talked to their apprentices. For some reason a lot of apprentices are disillusioned. Out of four different trades used at my house, two of the apprentices have given up their apprenticeships. They were working directly for that person. Why is that? It is an issue that we need to address. We need to make apprenticeships attractive both ways. We have certainly tried, and we are not going to give up just because we have been spectacularly unsuccessful. We do want to help people learn, and it is also good for our business. We are pragmatic as well.

Mr MAZZOTTA — There has been a helluva lot of interest from our clients out there, Bruce, but until those bookings come through — —

It has only been relatively new to us, maybe over the last six months or so, that we have started up this, and there is no doubt that that will gain some momentum down the track.

Mr ATKINSON — I guess I am interested in how you would see that this might be addressed to some extent in the public policy sense as well. At this stage what I would put to you is that a lot of people are critical of the labour hire industry for being a contributor to that diminishing skill base, not because of its own actions but simply because those client companies that you are supplying workers to are saying, ‘We do not have to employ apprentices. We do not need to upskill young people because we can simply buy them from a labour hire company and we will get through our work program’. Indeed I wonder if you had client companies who were even saying to you, ‘What you are doing with apprenticeships is a very noble thing, but we want skilled tradesmen. We do not want to be paying a labour hire company to provide us with people who are still learning the craft’. What I am interested in is that you guys are getting it in the neck to some extent for being a contributor to that problem. As you know, the whole skills development issue is very much on the national agenda. I wonder if you have any observations, either today or perhaps subsequent to this hearing, of what we ought to be doing in a public policy sense to address that sort of issue and make some real initiative there.

Mr MAZZOTTA — I can only say that I have been speaking to a few apprentices over the years, and the rate of remuneration is fairly low out there. There are a lot of apprentices — —

Mr ATKINSON — It is better than paying HECS! If you go to uni it is the other way — you pay them!

Mr MAZZOTTA — A lot of the guys out on site realise the value of what they are learning through an apprenticeship compared to a guy who is working in some skilled labour-type work, but unfortunately they are making four times the amount of money.

Mr ATKINSON — In the short term.

Mr MAZZOTTA — So the enticement for those young 19 or 20-year-olds is to drop out of their apprenticeships and start doing some labouring.

Mr ATKINSON — What you are saying there — and correct me if I am wrong — is that the problem is with the young people not wanting to take up the apprenticeships because of perceived short-term disadvantages, and that they perceive it as a disadvantage to their careers if they take up an apprenticeship compared to other areas they might tackle. Is that a structural problem in the industry? Are you saying that the problem is that the kids do not want to take up the positions rather than that the industry does not want to provide the positions or invest in them?

Mr BOSA — Go and talk to the kids. I did my own snap survey. Everybody wanted to be a computer scientist or something else. Nobody wanted to get their hands dirty. They see the trades as negative. If only they could have a bit more vision and see the beauty of doing things with wood or with their hands and of being creative in that sense and realising that in 20 years they will be making more money than the computer programmers because they will be rarer. It is that social issue. People do not want to get their hands dirty in a trade. How do you break through that?

Ms MEINEN — It is also the ‘now’ society. I think a lot of young people are a bit short-sighted. Without going back, we really do need to consider this as a flow-on effect from the demise of the good old tech schools where 20 years ago life changed for kids who had an affinity for using their hands — manual workers, motor mechanics, carpenters and those sorts of workers.

Mr ATKINSON — Some plumbers will make more money than architects and lawyers.

The CHAIR — Some plumbers deserve to make more money than architects and lawyers.

Mr BOSA — Do you know how to turn lead into gold?

Mr ATKINSON — I want to take a different tack, and it might seem provocative. I have been asking quite a few of the witnesses about their interest in establishing a licensing system for labour hire companies. In my party I have responsibility for small business, and I keep hearing from everybody that they want less red tape, but at this inquiry everybody comes to me and says, ‘We want a licensing system’. I then think, ‘There is more red tape’. How do you perceive the licensing system would contribute to any advancement of this industry and its work? The provocative part is to ask, ‘How does a company like yours rebut the argument that a licensing system is fairly convenient for major players, like yours, as a competitive barrier to new people entering the marketplace?’.

Mr BOSA — There is a notion that labour hire was set up to avoid things. I have been going since 1973, and many of the laws that I have been accused of trying to avoid were enacted a long time into my being in business. I did not start getting accused of setting up to avoid anything until the mid-80s, but there is that notion there. Any business can be set up as a sham. Take the bottom-of-the-harbour schemes; all of that was exposed. People can set up a business to avoid their obligations, but it does not make it legal and does not mean that they will be successful.

In labour hire we have to answer to every government department known to man. I think of our experience with the BWIU in the '80s. With the Labor governments, state and federal, we left our books in the open position, so we have very good discipline about all the bits of legislation, but I can see that once you are in the business of engaging people you are very much in the spotlight. There is such a plethora of laws, whether they are to do with OHS, workers compensation, all the IR laws and away you go. I cannot see another layer of red tape adding anything. It is just another bureaucracy, and there would only be another level of bureaucracy that the shams would attempt to avoid anyway.

What you say is quite true; it raises the bar for new entrants to the field. It is quite a vigorous industry. When I started I think there was me and Frank Hargreaves running Skilled, and now there are hundreds so it certainly is a growing industry, but another layer of government in there will not assist anybody.

Mr ATKINSON — It is nice to have a quote that we can use in the report that goes in the other direction!

The CHAIR — Bruce has been fishing for that quote for a long time, and finally you have provided it!

Mr ATKINSON — Thank you!

The CHAIR — I want to ask you about occupational health and safety. It seems to me that that is one of the core issues that brings together a few things we have talked about so far. We had evidence from Dr Elsa Underhill, who has done a fair bit of work looking at injury rates in the OHS field. Hers is a fairly broad examination through WorkCover claims, more so than looking specifically at the building industry or any other industry. Whilst there are objections to her research — some people having claimed that it is inaccurate — it is fairly persuasive. She claimed — and I may be paraphrasing here — that the injury rate is twice as high in labour hire-type situations as elsewhere.

I notice from your submission that you seem to have a fairly extensive OHS commitment. I pulled out from your material that you have put in in-house safety and awareness programs, visited client sites, held WorkSafe-approved OHS courses and six-day OHS courses that are approved by the Master Builders Association of Victoria. You also take participants through to a level 2 first aid certificate. That strikes me as being the exception rather than the rule in labour hire companies; in fact at the moment, from what we can gather, there is no consistency at all. They do understand that they are jointly responsible at law if something goes wrong, but apart from Skilled, who aspire to an Australian standard of sorts, there is no standard of work and there is no agreed methodology for different companies for things that they have to achieve. Bearing that in mind, it does not surprise me that the injury rate would be higher in labour hire-type situations. Have you adopted all these things because it is good business?

Mr BOSA — I am a worker and I do not like to see anybody else get hurt. If we can go that extra yard and make sure that the people are in a good, safe working environment, then I feel happier. If we have to bring in this noxious corporate manslaughter legislation, I have no fear because I know that we have a good culture of ensuring that workers are in a good environment. If we are just leading the field in it, it is news to me. We are just trying to do the right thing by the workers. There is the potential greyness in the joint responsibility, but the primary thing we look at is making sure that we go out and do the site inspections and do a general health and safety check so that people are aware of it. Then we do specific site inductions to make sure people know all the ins and outs of the site because that is good practice. It lessens our WorkCover, it makes us better, we become more profitable and we do not have to replace injured workers — that is bad. I do not think all labour hire works that way. I do not know where you get the figures from, but we have gone into places and reduced markedly the WorkCover rate because of the practices we bring with us. Quite simply it is good business.

The CHAIR — So why do other companies not do it? You do it because it is good practice, and you would think — and we are talking public policy — that surely one of our objectives should be that companies who are placing their workers on someone else's work site should take all reasonable care, and there ought to be things that we can test that against — objective standards — to make sure that their workers are going to be well looked

after and are going to be safe. But the fact is that what we seem to find from the evidence that has been presented to us is that the standard is all over the place. There is no standard, and the practices are all over the place. You do it, but others do not, or they do not do it as extensively as you.

Ms MEINEN — It is also something that has been a refining process over the years, too. We tend to agree that practices were not documented as thoroughly as they may have been some years ago and that sort of placement in certain industries might have been a bit ad hoc. Unfortunately in some businesses there may have been a notion that, ‘Oh! We just need some arms and legs and we will get them from somewhere else because it is somebody else’s WorkCover problem and we do not really care’.

With Labour Force and its licensees all around the country, not just in Victoria, we have been a lot more proactive with the licensees to change those views and because we have licensees that are operating in all sorts of industries, aside from the Troubleshooters scenario which is confined to the building industry, we have developed a very generic policy of induction of any worker. But the extension of that is the close working relationships between each individual agency and its end user that seeks to get to know a whole lot of industries and in conjunction with the end user clients even develop their own policies. It is something that we have seen developing in all states, so that if you do not have that close working relationship you have got a real problem because quite often we have noticed with a lot of our licensees they have gone to the end user and in conjunction with their own OHS people have actually developed and refined their own in-house policies. It is something that is evolving. It is getting better all the time.

The CHAIR — What would be wrong with the state saying, ‘We are going to now require that a certain standard be met in labour hire-type situations where you are placing employees into some other workplace situation so that we overcome the problem where the standard is all over the place’. You are meeting that standard?

Mr BOSA — In some ways are we not creating it, Tony? If only we and Skilled had got the OHS, does it not need to be just brought in to the industry? People most probably are not aware of it as such.

The CHAIR — How do you bring it into the industry though?

Mr BOSA — Making them more aware of what practices they should be doing. Just to say, ‘Here is a bit of regulation or legislation’ does not necessarily help. They need a bit of education. This is what is possible, raise the bar — —

The CHAIR — People have put it to us that at the moment if I want to set up a labour hire company all I need is a phone book or an address book and a mobile phone. I am not even registered with anyone in the state of Victoria.

Mr BOSA — At the moment you start engaging somebody you need to go to WorkCover, do you not?

The CHAIR — I would have a relationship with WorkCover presumably.

Mr BOSA — You need to go to the ATO and sign up with it. Who else do you sign up with?

Ms MEINEN — Payroll tax.

The CHAIR — I do not know that people who collect the payroll tax are all that interested in the OHS side of things.

Ms MEINEN — They would probably be not be terribly interested in OHS, but certainly your WorkCover registration starts to — —

Mr BOSA — Ring bells. You are engaging people. There is a bell for somebody who has got people working. You are already in the game, Tony.

Ms MEINEN — When you are covering such a vast range of industries, if you need any sort of regulation it is linking it back to the OHS requirements and practices of the end users, so that with any labour hire workers they may have on their worksite it is no different to their own employees. The same rule should apply. That is the thing that we impress through our system: that for OHS policy matters there is no difference whether they are a contractor or an employee through a labour hire agency or whether they are their own direct employees. The

responsibilities are exactly the same. They should be. They are workers on that workplace. They are not fodder for getting something done cutting across corners.

Mr BOSA — I think they just need a bit of education, and business says, ‘Look, I will go that extra yard’, and they find out that by spending that penny on doing their OHS inductions they actually save a lot of money in WorkCover and turnover of staff. That is what they need: education rather than legislation.

The CHAIR — But what does education mean? Constantly governments come out and say, ‘We will run an education program’. A pamphlet gets produced and that is it. Everyone walks away and says, ‘Well, that is the education program’. We could say that participants in the industry, all labour hire operators, need to provide this sort of information. What if they do not and injury rates continue? What is an education campaign backed up by? I could be someone that decided tomorrow that I want to set up a labour hire company. I could be what is commonly called a shonk. I rope some people in, I pay them less than what I am meant to, I do not observe any OHS requirements and I am just working on the basis that something will not go wrong and if it does then I will be out of town in a hurry. I am required to run some sort of education campaign or be involved in it — big deal! So I do not do it, and if I do not then I will get a slap on the wrist for not doing that perhaps.

Mr BOSA — Sorry, Tony, but the analogy holds true for any business or work you do where you deliberately set out to defraud either people or the government. You are breaking the law. It does not matter if its labour hire or selling lollies. You have set out to break the law; that is what you are doing and anybody can break the law.

The CHAIR — I understand that, but in an industry where we are getting evidence that the injury rate is twice the average elsewhere, people get hurt far more often if we break the law in that regard.

Mr BOSA — Our experience has gone the other way. I have just had one where its WorkCover was going through the roof and we have reduced it by good practice. Around the country that is generally what we find. WorkCover rates are coming down against the trend because you institute good practices and you look after the people.

Ms MEINEN — I do not know the research that you are referring to. How long ago was that done?

The CHAIR — It is pretty current as far as I can tell.

Ms MEINEN — It is our experience with our group of licensees that having put these practices into place and learning to manage the injuries a lot better, which is another part of the problem, those WorkCover rates are coming down, which really equates to the fact that there are less incidents that are causing problems and returns to work and so forth are working far more efficiently. Again, we come back to the evolutionary crisis.

The CHAIR — You could be right. It could be that the incident of injury in labour hire-type situations is far more prevalent or disproportionately higher with smaller labour hire providers than it is with larger providers because there is typically less observance of OHS.

Ms MEINEN — Perhaps that certainly is, but the flow-on in labour hire particularly is that one of the difficulties in labour hire is managing return to work programs. That could be artificially inflating a lot of the figures.

The CHAIR — You assume it is automatically harder for smaller companies than bigger ones.

Ms MEINEN — It is, because sometimes you get an injured worker and you just cannot do a lot with them. It is very difficult in some cases to be able to get an efficient return to work plan.

The CHAIR — I am not suggesting that there are perfect answers. You can follow that through and say, ‘We need to be mindful of the position of small companies’, but equally you cannot divide the plight of a worker into two categories: the worker who might by circumstance be employed by a larger labour hire firm and one who is employed by a smaller firm. The worker does not wish to concede their rights at all by taking option A ahead of option B. They should be entitled to the same treatment wherever they go in that industry.

Mr ATKINSON — Have you ever been put in a position where client companies have suggested that you do things that you would regard as taking shortcuts or cutting corners and what has been your response in those areas?

Mr MAZZOTTA — There have been quite a few sites that I have been out to where I have ordered the guy to go home for the day because of a particular client providing an unsafe work environment. We specifically tell all our contractors that if at any stage there is element of work which is dangerous to give us a ring straight away.

Ms MEINEN — In other industries our standard practice is to not supply any workers to that work site until you have thoroughly investigated, got procedures in place and investigated the OHS situation. If they are not running a decent work site, then sorry, we do not supply workers!

Mr BOSA — It is bad business.

The CHAIR — What typically happens with that client — to use that expression — where you have walked away and said, ‘Not interested’? Do they change their practices or do they find someone who does not ask that question.

Ms MEINEN — Either or!

Mr BOSA — Some clean up their act and, exactly, some just go their own way and find somebody else. It does not have to be labour hire. They could just ring up Freddy out of the paper. They could get them from anywhere.

Ms MEINEN — It does then go back to what is the real intent of the end user in that case. Were they looking for a cheap fix or were they unaware of the problems and will set about cleaning them up?

The CHAIR — We assume in that situation what they are on about it is trying to avoid their responsibilities under law.

Ms MEINEN — To use your terminology, this is where you get the shonks coming in.

The CHAIR — It happens commonly enough.

Ms MEINEN — It is a problem.

The CHAIR — It is a problem. I think we accept that.

Mr BOSA — But in the building industry it does not necessarily have to be labour hire when they have got bad practices. A lot of people float around in the industry.

Mr ATKINSON — What percentage of your employees that you provide by labour hire to client companies would you say are on inferior workplace conditions or award payments to those people that might be retained by those client companies as direct employees?

Mr BOSA — I would say absolutely zero. It would not apply.

Ms MEINEN — Zero!

The CHAIR — Thank you for your time. We will send you a copy of the transcript in a couple of weeks and you can correct it. Thanks very much.

Witnesses withdrew.