

What the Royal Commission into Australia's trade unions revealed

Part Two: Companies pay union "membership fees"

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3 June 2016

Published below is the second part of a five-part series on the report of the 21-month Royal Commission into the trade unions in Australia. See Part One, Part Three, Part Four and Part Five.

Most workers are all too familiar with the standard line presented by their union leaders in the course of negotiations for a new employment agreement. On the infrequent occasions that bureaucrats descend from their comfortable office suites, and back-room deals with management, to address the workers, they insist they are "fighting it out" and remain "at loggerheads" with management. After the inevitable sell-out, the union either conceals the real contents of the agreement, or declares it did the best it could under "difficult economic conditions," "in order to save jobs," or both.

The final report of the Royal Commission into the trade unions partially lifts the lid on what really happens. The company and its union lackeys jointly work out how they can slash workers' rights and conditions, and how much the union will be paid for selling the deal and suppressing opposition.

The report contains numerous examples where trade union bureaucrats impose huge cuts to workers' pay and entitlements, and receive hundreds of thousands of dollars in exchange. In many cases, the company forges a list of union "members" from its employees, and pays their "membership dues." This allows the union to artificially inflate its membership records, in order to increase its factional weight within the Labor Party. For the unions, this is all the more critical under conditions where millions of workers see no point in paying dues, to the tune of hundreds of dollars a year, for the privilege of being lied to and betrayed.

The following examples all relate to the Australian Workers Union (AWU), which officially boasts 100,000 "members." The current Labor Party opposition leader, Bill Shorten, was national secretary of the union from 2001-2007, and Victorian state secretary from 1998-2006, the period covering most of the report's revelations. He was succeeded in the latter role by Cesar Melham, who held the post until 2013, when he retired to become a Labor Party MP.

Winslow

Citations refer to Volume IV, Chapter 10.8 of the royal commission report, available here.

Since the mid-1990s, Winslow Constructors, a civil construction company, has had an arrangement with the AWU whereby Winslow pays the union "membership fees" for all permanent employees who have

worked for the company for more than one year.

This arrangement is still in place today. Every six or twelve months, Winslow sends the AWU a list of its eligible employees. The AWU crosschecks the list against its records and sends the company an "invoice" for "membership" fees (*point 8*). According to the commission report, the "requirement under rule 9 of the AWU rules to obtain from the employees signed membership applications was largely ignored" (*point 76*). It states that "a significant number of persons" were recorded as members of the AWU "when in truth they are not members under the rules, and in circumstances where they may well not have known whether or not they were members."

The payments total hundreds of thousands of dollars. In June 2010, for example, the union invoiced Winslow \$44,401.51 (*point 71*). Another invoice, in May 2012, was for \$74,218.18 (*point 78*). In some cases, invoices were written down as payments for "training" provided by the union. The report states, "the evidence overwhelmingly indicates that the invoices in question were not related to the provision of training." The counsel assisting submitted that the purpose of this practice was to allow Winslow to claim its payments to the union as tax-deductible training expenses (*point 40*).

In exchange, the AWU functions as Winslow's industrial police force. It appears, from evidence presented to the Commission, that one of the union's tasks is to try and ensure that the wages of Winslow workers remain lower than those of the workers employed by at least its main competitor. The union secretly reports to Winslow the details of EBAs that it has signed with the competitor, allowing Winslow to arrange for its own workers to always be paid less. These sordid dealings are conducted entirely behind the backs, and at the direct expense, of Winslow's employees.

The Royal Commission report contains segments of private emails sent in 2010 between Winslow's director Dino Strano and Peter Smoljko, then an organiser for the AWU. Their correspondence sheds light on the obsequious and unrestrained grovelling of the union toadies to their corporate masters. The Winslow managers, on the other hand, treat their bought-and-paid-for "organisers" with unconcealed contempt.

On September 28, 2010, Smoljko sent an email to Strano containing the recently signed EBA between the AWU and BMD Constructors, a competitor company. Half of BMD's workers were also being covered, at the time, by the AWU.

Overjoyed that AWU secretary Cesar Melham had sent him the agreement, Smoljko was unable to contain his excitement at the prospect of being congratulated by Strano for having accomplished the mission. Referring in his email to Cesar Melham, Smoljko wrote to Strano: "Cesar has finally delivered, here is the BMD EBA! P.S. He had to use the excel spreadsheet that I developed for you to help drive this outcome!" (*point*

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Smoljko finished by crowing to Strano that the agreement, “should bring a smile to your face!” (*Point 91*)

The Commission report reveals why. Workers at Winslow were earning substantially less than their BMD counterparts. Under the agreement, a new entrant to the industry was going to be paid \$20.95 per hour by BMD, compared to Winslow’s \$16.19 per hour for the same position. A backhoe operator at BMD would be paid \$24.67 per hour at BMD, but just \$20.51 at Winslow. And all of this, Smoljko reminded Strano, had been achieved through the use of his own “excel spreadsheet.”

Responding to Smoljko’s email, Winslow’s Strano declared: “You don’t know me well enough.” He instructed his overzealous lackey to “ready yourself for battle and let’s develop a strategy on how we will preserve our ability to stay competitive...” In other words, it seems that while Winslow had a temporary edge over its competitor, Strano was demanding that the union now come up with even more creative ways for further augmenting the company’s profits.

Underscoring the master-servant relationship between the company and union, Rohan Davidson, Winslow’s general manager, then ordered Smoljko to tally up the difference in labour costs between the two companies, writing: “Peter, from this info, can you please work up what their labour rate would be on a project valued at \$10m.” (*point 93*)

Indeed, Winslow’s management was so satisfied with Smoljko’s work that it hired him as manager of human resources. By taking this path, Smoljko was only acting in accordance with the rule, not as an exception to it. Many other union executives before him have clawed their way up through the trade union apparatus, to be rewarded at the end by corporate jobs and salaries. No change is needed to their job descriptions, since they are simply required to continue boosting corporate profits. The primary benefit, one can imagine, is that they no longer shoulder the tiresome responsibility of having to occasionally feign concern for the employees’ rights and interests.

Chiquita Mushrooms

Citations refer to Volume IV, Chapter 10.6 of the report, available here.

Chiquita Mushrooms is a mushroom farming company with sites in Mernda and Yambat, in the state of Victoria. The company is owned by Costa Group, a giant agri-business with a market value of close to \$1 billion. At the time covered by the report, Chiquita’s annual profits were slightly more than \$300,000.

In the course of negotiations for a new EBA with the AWU in 2004, Chiquita demanded the removal of clauses in the previous contract that restricted its ability to use a labour-hire company to supply workers for its sites (*points 8-9*).

Workers employed in this way, classified as “independent contractors,” are not covered by the same agreement as workers employed directly by Chiquita. The former are generally unable to find permanent jobs. Many are immigrants with limited English, and are compelled to accept the super-exploitative conditions offered by the labour hire companies. They typically have no protections against dismissal, so are forced to work long hours, on-call at any time of day, for very low wages.

Far from opposing Chiquita’s demand, the AWU’s representative at Chiquita, Frank Leo, then AWU assistant secretary in Victoria, insisted only that Chiquita use a specific labour-hire company, One Force, as the sole provider of cheap labour. Leo informed Chiquita that One Force, unlike another labour-hire firm that Chiquita had been using, was “union-friendly” (*point 16*).

Immediately after the union had pushed through this agreement,

Chiquita sacked large numbers of workers, who were instructed to reapply for their previous positions through One Force, with far inferior conditions. Those who did get back their old position no longer received additional pay on weekends and public holidays. For example, on Sundays and public holidays, workers employed directly by Chiquita earned \$26.56 and \$36.95 per hour (*point 82*), respectively, while One Force contractors received just \$18.95 an hour. Moreover, on weekends, the contract workers received no additional bonus rates for packing more than four boxes of mushrooms per hour, and on weekdays their bonus rates were half those of Chiquita employees (*point 80*).

In exchange for being granted the “right” to cut their workers’ pay and entitlements, Chiquita paid the AWU \$24,000 over six months, for so-called “education leave” (*point 102*). Chiquita’s human resources manager, Joe Agostino, cynically and candidly informed the Royal Commission that these payments were “a very small price to pay to avoid disruption to production arising from the use of independent contractors” (*point 35*). In other words, the union guaranteed that it would suppress any strikes against the mass sackings and the wage reductions, so long as it was paid off.

According to an analysis of commission documents published by the *Australian* newspaper on June 27, 2015, One Force, which, thanks to the AWU’s Frank Leo, had been given a monopoly to supply super-exploited contractors, paid the AWU \$150,000 over the next ten years. According to the newspaper, One Force signed up its employees as “members” of the union and the AWU credited the revenue from One Force as membership payments.

In the course of the Royal Commission hearings into Chiquita, four former employees testified with bitterness and anger about the AWU’s role. They described how the union had not only agreed to, but had organised, the mass sackings.

Sharon Dellervigni began working at Chiquita in 1991 and immediately joined the AWU. Dellervigni told the Commission that Frank Leo ordered workers to accept the 2004 agreement and the mass sackings that would follow. She conveyed Leo’s contemptuous attitude to the workers when, like a real company man, he announced the new conditions that they would have to accept.

“The company needs to make redundancies,” Dellervigni recounted Leo declaring. “You are lucky to be getting any redundancy payment because you are employed as casuals. Casuals are not entitled to anything. You can come back to work as agency workers. You can keep your same jobs through One Force.” (*point 69*)

Dellervigni explained: “The workers were not happy about this. Some of the pickers spoke out and said the AWU was selling us out. Mr Leo’s response was that the redundancies were going to happen, we were lucky to get anything and we should be thankful ... I was very angry about this. At a number of meetings I spoke up and asked why we were being made redundant just to be replaced in our same roles through an agency.” Unsurprisingly, given her outspoken opposition to the union’s sell-out, Dellervigni was not rehired after applying for her old job through One Force, and received just \$18,000 in redundancy pay.

“When I heard about [the payments to the union] I was dumbfounded, but it made sense to me considering the lack of support we received from the AWU during the redundancy process,” she said. “It appeared to me during this time that the AWU was clearly doing what Chiquita wanted.”

Thiess John Holland

In 2004, the Thiess John Holland construction consortium finalised a deal with the AWU and the Construction, Forestry Energy and Mining

Union (CFMEU) for the construction of the EastLink freeway in the state of Victoria.

Thiess John Holland paid the AWU \$110,000 per year, for three years, ostensibly to pay for a union organiser and supply him with a car. In exchange, the AWU agreed to trade away the conditions of its own members. These included critical protections against working in dangerous weather, such as rain, hail and extreme heat. Generations of workers had fought major battles to establish and defend these conditions because of the many deaths that used to occur on construction sites before they were won.

As a result, with work proceeding around the clock, the consortium finished the project five months early, saving it millions.

In testimony to the Royal Commission, Labor opposition leader Bill Shorten openly defended the union's role. It had a "reputation ... that we wouldn't be staging, you know, unauthorised industrial action," he boasted. "So I believe that a company would want us engaged, and they would want to make sure that the AWU was providing services to its workforce. The truth of the matter is ... that some companies like dealing with unions..." True indeed!

In separate testimony, Shorten openly defended the AWU's role on behalf of the companies as "modern trade unionism." He declared: "What I've done as a union leader and what literally thousands of other union representatives do, is make sure that we have co-operation in the workplace." (See: "Australian union leader defends 'modern' deals to boost corporate profits")

Cleanevent

Shorten's comments followed the revelation in the Commission that in 2010 the AWU had struck a deal with the cleaning company Cleanevent, saving the latter an estimated \$6 million in wages over three years. In exchange, Cleanevent paid the AWU \$75,000 for "union dues," and provided the names of its employees who were signed up as "members."

Under the secret Memorandum of Understanding (MoU) between Cleanevent and the AWU, cleaners were paid as little as \$16.64 an hour. A cleaner working 38 hours on this wage would earn just \$632 per week. Since the Australian Council of Social Services defines the poverty line as \$400 per week for a single person, to support a family on \$632 would mean living beneath the poverty line. Moreover, under the MoU, the workers were also stripped of additional allowances, to which they were legally entitled, for working on weekends, public holidays and at night.

To be continued

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