

Media Release

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Australian Government

Office of the Australian Building and
Construction Commissioner

Queensland union official admits threatening and intimidating subcontractor

The Federal Court in Brisbane has ordered the CFMEU and official Tim Nesbit pay penalties totalling \$49,000 for coercing a subcontractor to terminate their existing lawful workplace agreement and make a CFMEU agreement.

The penalties of \$40,000 and \$9000 were imposed on the union and Mr Nesbit respectively after a settlement was reached with the ABCC.

In a decision handed down on 23 December 2009, the Court made declarations that the CFMEU and Mr Nesbit contravened s.44(1) of the *Building and Construction Industry Improvement Act 2005* by their intention to coerce the subcontractor to:

- (i) terminate its current workplace agreement; and
- (ii) enter into a new workplace agreement with the CFMEU;
- (iii) on the basis that if the employer did not do so the employer would be banned from building sites across Australia and subjected to a workplace health and safety audit which would result in the employer spending a significant amount of money, at least \$30,000.

ABC Commissioner John Lloyd said '*CFMEU tactics to achieve industrial coverage through coercion and threats to the financial viability of a subcontractor are unacceptable. The ABCC will continue to pursue with vigour cases of this nature which come to its attention.*'

'The vulnerability of small subcontractors to stand-over tactics is a feature of the industry that the ABCC does not tolerate.'

Mr Nesbit visited the subcontractor's Brendale site to demand the subcontractor make a union agreement, agree to making further OH&S improvements and ensure all employees become union members, saying '*if you don't agree you'll be blackballed and you will not be allowed on any building site in Australia*' and '*make no mistake, its payback time*'.

Before seeing the subcontractor's workshop, Mr Nesbit told the subcontractor he was going to do a workplace health and safety audit of the workshop, requiring the subcontractor to undertake at least \$30,000 of improvements. Mr Nesbit made these threats with the intention of forcing the subcontractor to terminate its employee collective agreement and make an agreement with the CFMEU.

In determining the penalty the Court observed that:

'... The conduct was quite extreme and completely unacceptable. The Court must demonstrate its disapproval of that conduct by fixing a penalty which will operate as a deterrent to others.'

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