



Chairman: Peter Parkinson
UNIT 1, 233 CARDIGAN STREET
CARLTON SOUTH VIC 3053
A.C.N. 110 263 182
TEL: 03 9348 2613 FAX: 03 9348 2714
dboard@vbidb.org.au
www.vbidb.org.au

CONSTRUCTION, FORESTRY, MINING AND ENERGY UNION
(CFMEU)

and

PRO IMAGE INTERIORS PTY LTD
(PRO IMAGE)

AND

KANE CONSTRUCTIONS PTY LTD
(KANE)

RE: ALLEGED BREACH OF ENTERPRISE AGREEMENT
SHAM CONTRACTING

21 FEBRUARY 2023

003-2023

STATEMENT

[1] The CFMEU notified a dispute on 7 February 2023 regarding alleged Breaches of the Enterprise Agreement by Pro Image at the Mt Eliza Aged Care Facility Project where it is a subcontractor to Kane as principal.

[2] The applicable Enterprise Agreements are:

- *Pro Image Interiors Pty Ltd and the CFMEU (Victorian Construction and General Division) Subcontractors Plastering Enterprise Agreement 2020-2023.*
- *Kane Constructions Pty Ltd and the CFMEU (Victorian Construction and General Division) Enterprise Agreement 2020-2023.*

[3] The Panel conducted a Conference of the parties by video on 21 February 2023. Kane participated pursuant to subclause 15.4(f) of its Agreement, which the Panel appreciates.

[4] It became apparent that the ‘arrangements’ that Pro Image has in place through the apparent engagement of other subcontractors to perform its contracted works was not known or understood by either the CFMEU or the Kane representatives. In response to advice received by the CFMEU immediately prior to the Conference, Pro Image also advised that a similar arrangement was in place on another site where Kane is the principal, namely 120 Collins St Melbourne.

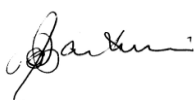
[5] On the face of the information provided by Pro Image, it raises for the Panel a range of unanswered questions and concerns, in order for it to adequately establish whether or not there is or has been compliance with the Agreements. The Panel notes given Kane’s previous involvement before the Panel in matters concerning alleged sham contracting, that its processes would have now been such that there should be no surprises in relation to engagement of labour on its projects.

[6] The Panel notes that it can on its own motion undertake an audit of all relevant records concerning the engagement of personnel pursuant to the alleged dispute as provided by the Agreements, however in the first instance it considers the parties themselves need to undertake a proper examination of the facts to determine if there is any substance to the allegations. This requires the cooperation of all parties.

[7] To this end the parties agreed to the Chair’s proposals as follows:

1. That Kane immediately facilitates provision of relevant information to the CFMEU to ensure fundamental onsite safety and workers compensation arrangements for workers are in place through relevant SWMS and the like together with appropriate evidence of Workcover documentation.
2. That Kane will promptly inform itself of the “arrangements” that it has in place with Pro Image to satisfy it as to the compliance with its own obligations under the Agreement and the law.
3. That Kane, Pro Image (and any of its apparent subcontractors) and CFMEU meet during the week commencing **Monday 27 February 2023**, at which time Pro Image will ensure that all relevant contracts on engagement, contracts of employment, payslips and other relevant documentation pertaining to the workforce engaged by it or on its behalf on the Kane projects, are made available for review, to enable a proper and adequate assessment of compliance or otherwise with the Agreements, by both Kane and the CFMEU. The Panel requests that Kane facilitates this meeting and any follow up arrangements.
4. That a full report be provided by the parties to the Panel at a video Conference to be held on **Thursday 9 March 2023 at 10.00am**. Subject to the outcome of the Conference the Panel will determine any next steps or Directions.

[8] The parties are encouraged to proceed in good faith to resolve these matters constructively. In the meantime, the Panel remains available should the parties require any assistance.



Peter Parkinson
Chairman



Tony Cordier
Panel Member



Adrian Ziccone
Panel Member