

PRESIDENT'S REPORT 2009

A New Workplace Relations Environment

As President of the Federation, it is once again a great pleasure to be able to report to members on the activities and events in which the Federation has been involved over the past 12 months. Through membership, your support of the Federation has been crucial to our continued success in what was a turbulent industrial year. Your support makes our task most satisfying.

The last year could well be described as one of stark contrasts. As we fought through and begin to emerge from the effects of the global financial crisis, it became evident that certain some parts of our industry were achieving greater buoyancy while others remained very flat. I think all businesses have come to accept that there is no longer a guarantee of sustained growth. The underlying emphasis for many businesses in 2009 switched from expansion to cost control. Notwithstanding, there can be little doubt that the Federal government's fiscal stimulus policies over the past year have had a positive effect on our industry. It remains to be seen whether this political 'medicine' provides a cure or simply renders short term relief. In the coming year, I'm sure we will all watch with close interest how government policy will affect the movement in interest rates, as this will undoubtedly determine, in part at least, the level of strain that will be placed on our business resources.

Of course, unsurprisingly, the Federation's major focus throughout 2009 was in relation to the federal government's new workplace relations system. For the second time in three years we were confronted with major change to workplace relations policy at the federal level. First in 2006, it was the Coalition's "WorkChoices" scheme and in 2009, we began to feel the effects of Labor's "Forward with Fairness" policy. In July 2009 the Fair Work Act commenced operation. This Act presented new challenges for business as well as the Federation. The new industrial regime (which became fully operational on 1 January 2010) introduced changes including new institutions, new minimum employment standards and a new set of national awards. The Federation has played an important role this year in helping members prepare for the various changes introduced by the Fair Work Act.

The most immediate effect of the new regime for our members was the re-introduction of unfair dismissal laws. Many real estate agency owners haven't had to be concerned about unfair dismissal laws for some time because businesses with less than 100 employees were exempt under the old law. Despite government protests that its unfair dismissal laws are moderate compared to those applying pre-2006, REEF is witnessing a return to the bad old days when "go-away" money was commonly 'presented' to ex-employees claiming they had been unfairly dismissed. There will be undoubtedly greater pressure placed on all businesses, irrespective of size, to put in place more stringent performance management systems in order to minimise the opportunity for a successful unfair dismissal claim. Already at the Federation, our staff has experienced a significant increase in calls from members concerned about the appropriate way to manage an employee's performance, conduct or behaviour. Members understand that the Federation's professional industrial staff are ideally placed to provide premium (and highly cost-effective) advice on how to best manage this problem.

Providing Leadership to the industry

The single biggest issue that confronted the Federation in 2009 was the award modernisation process. This process, undertaken by the Australian Industrial Relations Commission, set out with the objective of reducing the number of awards operating across the country by creating national, "industry based" awards. While the government declared that these new so-called 'modern awards' would not increase costs for employers, it is now abundantly clear that all industries, including real estate, will be forced to endure increased labour costs as a result of the award modernisation exercise.

As I stated last year, our primary concern was to achieve a national award that granted the industry "stand-alone" status. The next objective was to have the AIRC endorse a modern award that did not unduly inhibit the flexible work arrangements so necessary in an incentive-driven industry like real estate. In March 2009, together with other state based employer organisations, we met with the real estate unions from NSW, Queensland and South Australia to discuss the appropriate form of a national award for the real estate industry – these discussions did not include the

union representing clerical employees. The negotiations in relation to the content of the award were both robust and protracted. We were convinced however, that it would serve our members' interests best to approach the AIRC with a "consent" arrangement rather than move forward in disagreement.

The negotiations eventually revealed a draft modern award that had the universal support of all employer parties and the real estate unions. However, the Australian Services Union (the ASU represents clerical employees) opposed the inclusion of clerical classifications in our proposed draft award. In October 2009, the AIRC handed down its 'preliminary' decision concerning a modern real estate industry award. Pleasingly and most importantly, it did grant us the stand-alone status that we so desperately sought. It also endorsed, with only minor amendment, the conditions of employment we proposed for operational employees. However, to our great disappointment, the AIRC decided to exclude clerical employees from the industry award. The effect was that clerical employees in our industry now have their minimum terms and conditions of employment provided for under the **Clerks – Private Sector Award 2010**. This outcome provides disastrous consequences for NSW employers as the Clerks Award contains horrendous increases in wage rates generally together with antiquated penalty rates for weekend work and untenable restrictions on the working of ordinary hours. Despite REEF's vigour and relentless attempts to have this part of the decision overturned (including witness statements from a selection of our members who will be seriously affected), the AIRC endorsed its original determination when it handed down its final judgement in early December.

Our Executive Director has detailed extensively how this clerical determination will affect real estate agencies in NSW especially those that operate on Saturday and/or Sunday. This matter remains on REEF's radar for 2010.

REEF was the lead organisation representing the views on behalf of real estate employers throughout the entire award modernisation process. Let me say that I estimate the Federation has spent hundreds (if not thousands) of hours of working time on the award modernisation process. This has involved the drafting of proposed awards, preparing numerous written submissions to the AIRC, presenting oral submissions to the AIRC in both Melbourne and Sydney and attending meetings with

unions and employer associations in Perth, Brisbane and Sydney in addition to countless teleconferences.

With the modern awards now in operation, we must look to discussing with members how to implement the new awards as well as how to adjust payrolls to account for changes in entitlements. In this regard, the AIRC has determined a 5 year phasing-in period for rises in award provisions including minimum wages and penalty rates.

National award - National representation

The award modernisation process opened my eyes to one very important fact – there is now a clear need for a **national** organisation to represent the interests of real estate employers in the field of workplace relations. While there was a general feeling of goodwill between the various State based “REEFs” during this process, seeking consensus on strategic and administrative planning was at times either challenging or unnecessarily frustrating. A national workplace relations system is clearly here to stay. A national system, in my view, requires a national response.

For this reason, the Federation will be initiating discussions during 2010 with other state-based associations with the objective of establishing a national employer body to represent the real estate industry on all workplace relations matters. It is my hope this can be accomplished within the next two years.

Information to you – timely, accurate and friendly

As practicing agents, we all understand the importance of communication to the success of our businesses. At REEF, we are constantly reviewing the best ways of providing our busy members with rapid access to expert and concise information.

Members of course can talk to one of our workplace relations specialists at any time and obtain answers to their questions in a considered and friendly manner. For the cost of an hour's time with lawyer, your subscription provides a highly cost-effective means of obtaining unlimited access to professional workplace relations advice and guidance.

As well as this professional advice, REEF continues to provide important information to members through its newsletters, email alerts and seminars. We also continue to put significant effort into improving the material members can access via our website. In our fast paced commercial environment, members are becoming more attuned to using their fingers to obtain the information they need to manage their staffing resources. Our website provides ready access to a broad range of employment material including employment agreements, commission structures, sample company policies, job descriptions and template HR letters.

During 2009, we initiated 2 new communication programs to assist the harried real estate agent. In July, reefTV was launched providing members with short media files that examined selected employment based topics. These files, accessible through REEF's website, have proven to be most popular with members and have covered important issues including the use of independent contractors in real estate, the difficulties of enforcing post-employment restrictions and what you can do to protect your confidential information. I know our staff have another 'series' of reefTV planned for 2010....may I suggest you don't miss the sequel!!

In October, our communication initiatives went more 'hi-tech' with the launch of our first member "webcast". This webcast, which was streamed live over the internet, provided members with access to a visual and audio on-line seminar examining the "draft" modern awards and National Employment Standards. This new technology enabled us to communicate with a large number of members over the shortest possible time. In December, we streamed our second webcast around Australia (this time recorded) in which our Executive Director examined the final outcomes from the award modernisation process.

We will continue to look at innovative, practical ways of improving the way we provide members with information and advice.

Thank you to our valued corporate partners

I mentioned in my report last year that REEF had entered into relationships with a number of corporate partners. These relationships enhance our ability to provide members with the services that we hope assist your business. In 2009 for example, with the generosity of REI Super, we were able to produce and broadcast across the internet, the December webcast to which I previously referred.

The Federation is certainly grateful to **REI Super** and its other major sponsor, **Direct Connect** for their support of REEF and its member services throughout 2009. I'm also pleased to announce that both these respected organisations will be back 'on board' with us in 2010. I encourage all members to support our sponsors and take advantage of the outstanding services they each provide.

Faces behind the organisation

As I feel compelled to do each year, I use this report to publicly acknowledge the Federation's staff for their highly committed service on behalf of members. Thank you to our Executive Director Greg Paterson, Director-Workplace Relations Jenna Pascoe, Workplace Relations Advisers Gerald Puse, Michael Vella and Christina Wilson and Administration Manager Dianne Craig. Their brief is to be an additional resource for your business, providing information, advice and industrial guidance in a friendly and practical manner.

It would be remiss of me if I did not take the opportunity to thank the other Office Bearers and members of the Management Committee for their contribution to the policy direction of the Federation during 2009. The wide range of experiences these individuals bring to bear on any issue affecting the industry is fundamental to our work at the Federation. I am most appreciative of their efforts that helps ensure we maintain our position as the main employer voice for the real estate industry on matters affecting workplace relations.

Let me thank;

Vice-President	–	Fred Andriessen (The Professionals Fred Andriessen);
Treasurer	-	Peter Corbett (Ben Boyd Real Estate);
Past President	-	John Taylor

- Committee members-
- **Terry Heidtmann** (Penrith Professionals);
 - **Paul Deegan** (L. J. Hooker Lismore);
 - **Christian Payne** (Payne Pacific)
 - **Paul Byrne** (L. J. Hooker Commercial Bankstown);

A year of achievements

2009 has been an exciting year both for the Federation and for me personally. The award modernisation process was as exciting as it was challenging. The outcomes we were able to achieve for the Australian real estate industry were, for the most part, very pleasing. I've also been proud of the innovative strategies adopted by the Federation to assist members in understanding and adapting to the new national workplace relations system.

But perhaps the achievement that brings the biggest smile to my face is the fact that this organisation succeeded in paying out the mortgage on its premises in the CBD. We should all be very proud that we now own premises that will serve us well into the future. The decision by your Committee 5 years ago to purchase a strata suite was, to some extent, brave. The decision has certainly proven to be the correct one but one that could not have been achieved without your valued membership.

2009 has certainly been a year that has placed an ever-increasing demand on our resources but we endeavoured to remain true to our objective of providing members with quality workplace relations services that help minimise employment risks – risks that if left unattended, can do irreparable damage to their business. It is these services that represent the true value of membership.

I thank you sincerely for your support of the Federation in 2009 and hope you remain with us in 2010.

BRYAN WILCOX
President