

Franchisee from popular Perth restaurant chain faces Court

24 August 2017

The Fair Work Ombudsman has commenced another legal action relating to a franchisee of the Han's Café chain in Perth, alleging staff at an outlet in the city's south-east were underpaid more than \$67,000.

Facing the Federal Court in Perth is Phua and Foo Pty Ltd, the franchisee of the Han's Café outlet located at Jull Street, Armadale.

It is alleged that 27 employees at the Armadale Han's Café outlet were underpaid a total of \$67,161.51 over a nine-month period between December 2014 and September 2015.

Fair Work Ombudsman inspectors checked the books of the Armadale Han's Café outlet as part of a proactive auditing campaign in Perth's south.

Inspectors allegedly found that 27 employees at the outlet, including one junior aged 18-19, were paid flat rates which were below the minimums in the Restaurant Industry Award 2010.

This allegedly resulted in the employees being underpaid their minimum rates for ordinary hours, casual loadings and weekend penalty rates they were entitled to under the Restaurant Industry Award 2010.

Most of the workers were employed as kitchen attendants, cooks and food and beverage attendants. The workers were back-paid in full earlier this year.

Fair Work Ombudsman Natalie James says legal action has been commenced because of the significant underpayment of workers.

Phua and Foo Pty Ltd faces penalties of up to \$54,000 per contravention – and the Fair Work Ombudsman is also seeking a Court order for the company to commission workplace relations training for managerial staff.

The matter is listed for a directions hearing in the Federal Court in Perth on August 28.

The legal action comes after the Fair Work Ombudsman earlier this year secured \$37,500 in penalties in Court against the operator of the Han's Café chain, Tram Hoang Han, and two associated companies for record-keeping practices that were so poor they prevented the Fair Work Ombudsman from determining the full extent of underpayments of vulnerable overseas workers.

The legal action also follows the Fair Work Ombudsman recently commencing legal action alleging the franchisee of the Rockingham Han's Café outlet underpaid staff more than \$27,000. Fair Work Ombudsman operational work relating to Han's Café outlets in Perth remains ongoing.

The Fair Work Ombudsman is not alleging that the franchisee of the Han's Café in Armadale was involved in the agency's litigations involving other Han's Café outlets.

Ms James says exploitation of workers in franchises continues to be a concern for the Fair Work Ombudsman.

"The public are demanding greater transparency and accountability by well-known franchise brands," Ms James said.

"Responsible franchise service networks should put in place systems to promote compliance with workplace laws and ensure that employees in their network receive their lawful entitlements. The Fair Work Ombudsman will work with franchisors and the franchising sector to ensure those that want to do the right thing by their workers are supported to do so."

Employers and employees seeking assistance can visit www.fairwork.gov.au or call the Fair Work Infoline on 13 13 94. An interpreter service is available by calling 13 14 50.

Information to assist people from culturally and linguistically diverse backgrounds has been translated into 30 languages and is available on the website.

Media releases concerning the other litigation matters relating to the Han's Café chain are available in the [Fair Work Ombudsman's media centre \(www.fairwork.gov.au/about-us/news-and-media-releases\)](http://www.fairwork.gov.au/about-us/news-and-media-releases) .

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Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

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