

## Migration agency faces Court for allegedly underpaying young overseas workers

25 January 2017

The Fair Work Ombudsman has commenced legal action against a migration agency, alleging it underpaid two young overseas workers in Brisbane more than \$17,000 over a period of less than five months.

Facing the Federal Circuit Court is ZNZ Education Pty Ltd, which specialises in providing services to Chinese clients and is part of the Zhi Nan Zhen Education and Migration Group that operates across Australia and New Zealand.

The company's human resources manager Ping Zhang is also facing Court for her alleged involvement in underpaying the workers. The company's former director Yangyang Li, who is a registered migration agent, is alleged to have been involved in a record keeping contravention.

It is alleged that two workers, both Chinese women aged 24 when their employment began, were underpaid a total of \$17,039 when they were employed at the company's Brisbane office between April and August, 2015.

One was in Australia on a temporary graduate visa, while the other was on a temporary resident visa at the time, before becoming a permanent Australian resident.

They generally worked 80 hours per fortnight but were paid flat hourly rates of between \$10 and \$11.25. One of the workers also received some commission payments.

They were allegedly entitled to have been paid minimum hourly rates ranging from \$16.87 to \$18.38, with one of the workers allegedly also entitled to overtime rates ranging from \$26.90 to \$36.76 per hour.

It is alleged that one of the workers was also unlawfully paid nothing for her initial two weeks of work on the basis that it was purported 'unpaid training'.

It is alleged that leave and public holiday entitlements were also underpaid and that record-keeping and pay slip laws were contravened.

Fair Work Ombudsman inspectors investigated after one of the workers lodged a request for assistance.

The workers were back-paid in full last year.

Fair Work Ombudsman Natalie James says legal action is being taken because of the alleged blatant underpayment of two vulnerable workers.

"We treat underpayment of overseas workers particularly seriously because they can be vulnerable if they are not fully aware of their rights or reluctant to complain," Ms James said.

ZNZ Education faces a penalty of up to \$54,000 per contravention, while Ms Zhang and Mr Li face penalties of up to \$10,800 and \$5,400 per contravention respectively.

The Fair Work Ombudsman is also seeking a Court Order requiring ZNZ Education to commission a professional external audit of its pay practices and report the results, as well as a Court Order requiring the company, Mr Li and Ms Zhang to complete the Online Learning Courses for employers at [www.fairwork.gov.au](http://www.fairwork.gov.au).

A directions hearing is scheduled for the Federal Circuit Court in Brisbane on 13 February.

Ms James says the step was taken to take legal action against the human resources manager as an alleged accessory because of her allegedly significant role in calculating and paying wages, creating pay slips and approving periods of leave.

It is the fourth matter in which the Fair Work Ombudsman has included a human resources manager as an accessory to one of its legal actions.

"We are prepared to take action against managerial staff who facilitate the underpayment of employees' minimum entitlements," Ms James said.

Ms James says it is also disappointing to find a migration agency committing alleged serious contraventions of workplace laws

because migration agencies have an important role to play in increasing awareness of workplace laws among migrant groups.

In a recent speech to the Migration Institute of Australia National Conference, Ms James appealed to migration agents to assist in dispelling the myth that migrant workers are not entitled to the same wages as Australian citizens.

Ms James says she is concerned about the number of employers from culturally and linguistically diverse backgrounds who have been in breach of workplace laws, particularly when they are employing workers from within their own communities.

“I want to make it clear to all employers that minimum wage rates, record-keeping obligations and the issuing of pay slips apply to everyone in Australia and they are not negotiable,” she said.

“I understand there are cultural challenges and vastly different laws in other parts of the world, but it is incumbent on all businesses operating in Australia to understand and apply Australian laws. To that end, the Fair Work Ombudsman is here to help with free advice and resources in a range of languages.”

In the 2015-16 financial year, 38 of the Fair Work Ombudsman’s 50 litigations (76 per cent) involved a visa holder, and more than \$3 million was recovered for all visa-holders.

Employers and employees seeking assistance can visit [www.fairwork.gov.au](http://www.fairwork.gov.au) or call the Fair Work Infoline on 13 13 94.

An interpreter service is available on 13 14 50 and information on the website is translated into 27 different languages.

Follow Fair Work Ombudsman Natalie James on Twitter [@NatJamesFWO](https://twitter.com/NatJamesFWO) (<http://twitter.com/NatJamesFWO>), the Fair Work Ombudsman [@fairwork\\_gov\\_au](https://twitter.com/fairwork_gov_au) ([http://twitter.com/fairwork\\_gov\\_au](http://twitter.com/fairwork_gov_au)) or find us on Facebook [www.facebook.com/fairwork.gov.au](http://www.facebook.com/fairwork.gov.au) (<http://www.facebook.com/fairwork.gov.au>).

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**Page reference No: 6889**

## Contact us

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Fair Work Infoline: 13 13 94

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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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