

Reality TV contestant faces Court over alleged unpaid internship, underpayments

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A fashion industry start-up that appeared on the reality show 'Shark Tank' is facing Court for allegedly running an unlawful unpaid internship program and underpaying three workers more than \$40,000.

The Fair Work Ombudsman has commenced legal action in the Federal Circuit Court against Her Fashion Box Pty Ltd and its sole director and majority shareholder, Kathleen Enyd Purkis.

Her Fashion Box, based in Sydney, sells online subscribers 'fashion boxes' containing fashion accessories and beauty products.

The Fair Work Ombudsman alleges the company underpaid three employees a total of \$40,543 for various periods of work between 2013 and 2015.

It is alleged the three employees, aged in their mid-20s, were variously underpaid their minimum hourly rates, overtime, public holiday pay and annual leave entitlements.

One employee, a graphic designer who had completed a university degree, allegedly worked two-days per week for almost six months without pay under a purported 'unpaid internship' before receiving a one-off payment of just \$1000. She was allegedly underpaid \$6913.

The Fair Work Ombudsman alleges she was in fact engaged as an employee and performing productive work, and therefore entitled to be paid minimum Award rates and entitlements.

Another graphic designer engaged by Her Fashion Box was allegedly underpaid a total of \$15,511 over a period of two years of full-time work as a result of underpayment of his minimum Award entitlements.

The third employee, engaged on a full-time basis as a brand partnerships manager, was allegedly underpaid a total of \$18,119 over a 12-month period.

The Fair Work Ombudsman also alleged that Her Fashion Box further contravened the law by failing to comply with four Notices to Produce documents or records issued by Fair Work inspectors.

Fair Work Ombudsman Natalie James says legal action has been commenced because of the lack of co-operation with inspectors and the significant amounts involved for young employees.

Her Fashion Box faces maximum penalties of up to \$51,000 per contravention and Ms Purkis faces penalties of up to \$10,200 per contravention.

The Fair Work Ombudsman is also seeking Court Orders requiring the company and Ms Purkis to back-pay the employees in full. They have been only partially back-paid to date.

An injunction restraining Her Fashion Box and Ms Purkis from underpaying workers in future is also being sought. If the injunction is granted, the company and Ms Purkis could face contempt of court proceedings for any further underpayment contraventions proven in court.

A directions hearing took place in the Federal Circuit Court in Sydney on 31 May 2017.

Ms James said her agency had received a number of requests for assistance from Her Fashion Box workers since 2015 with employees claiming they had been underpaid due to allegedly unlawful 'internship' arrangements.

"Unpaid placements or 'internships' are legitimate in certain cases – for example, where they are part of a vocational placement related to a course of study.

"The law prohibits the exploitation of workers by characterising them as 'interns' or as doing 'work experience' when they are fulfilling the role of an employee. Such workers must be paid minimum employee entitlements.

"Legitimate internship and work placements can be a genuine way for people to further their learning or gain skills that assist in finding stable employment, but only if these arrangements are entered into lawfully in accordance with an approved program.

“Employers cannot simply choose to label an employee as an ‘intern’ in order to avoid paying their staff according to their lawful entitlements,” Ms James said.

The litigation comes after a Fair Work Ombudsman litigation last year (www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2016-media-releases/june-2016/20160604-aimg-bq-penalty) resulted in the Federal Circuit Court imposing \$272,850 in penalties against Sydney-based media company AIMG BQ Pty Ltd to send a “serious message” not to disguise employment relationships as unpaid internships.

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.

The Fair Work Ombudsman has developed a range of resources – available at www.fairwork.gov.au/unpaidwork (<http://www.fairwork.gov.au/unpaidwork>) – for employers, employees and higher education institutions to promote a clear understanding in the community about what constitutes legitimate unpaid arrangements and vocational arrangements under the Fair Work Act.

They include fact sheets on topics including unpaid internships and work experience, unpaid trials, and vocational (student) placements. There is industry-specific information for the print and broadcast media, professional services, hair and beauty and hospitality sectors. The unpaid work research report commissioned by the FWO is also available.

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) or find us on Facebook www.facebook.com/fairwork.gov.au (<http://www.facebook.com/fairwork.gov.au>).

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Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

Need language help?

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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