

Adelaide nail salon operator accused of underpaying staff and providing false or misleading records to the FWO

28 June 2017

The Fair Work Ombudsman has commenced legal action against the operator of an Adelaide nail salon, alleging two young, migrant workers were underpaid more than \$50,000 and false records were later provided to the FWO.

Facing the Federal Circuit Court is Minh Gia Le, who formerly operated the nail salon, which at various times traded as Professionail, Global Nail and Beauty and/or House of Polish Central, in the Colonnades Shopping Centre at Noarlunga Centre.

Also facing Court is Mr Le's company, House of Polish Central Pty Ltd, which now operates the nail salon.

The Fair Work Ombudsman alleges Mr Le and his company underpaid two nail technicians at the salon a total of \$53,021 between November 2014 and March 2016.

The employees, aged as young as 20 and 21 at the time, were both Filipino migrants.

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

Inspectors found that the employees were allegedly paid less than the applicable minimum hourly rates in the Hair and Beauty Industry Award 2010.

Under the Hair and Beauty Industry Award 2010 at the time, they were entitled to \$18.97 to \$19.44 for normal hours and penalty rates ranging from \$23.71 to \$38.88 for weekend work.

It is alleged that Mr Le and his company failed to apply loadings and also breached workplace laws by knowingly providing inspectors with false and misleading records that significantly understated the hours the employees had worked, creating an appearance that they had been paid much higher rates than was actually the case.

The employees were allegedly underpaid \$35,680 and \$17,339 respectively. The alleged underpayments were rectified in full late last year.

Fair Work Ombudsman Natalie James says litigation has been commenced due to the alleged serious exploitation of vulnerable migrant workers and due to the provision of false or misleading records to Fair Work Inspectors.

The Fair Work Ombudsman also issued Mr Le a Letter of Caution in 2015 after a proactive audit of his salon found that an employee had allegedly been underpaid more than \$2800.

"We treat cases involving underpayment of migrant workers particularly seriously because we are conscious they can be vulnerable if they lack awareness of their entitlements and are reluctant to complain," Ms James said.

The company faces maximum penalties of up to \$54,000 per contravention, and Mr Le maximum penalties of up to \$10,800 per contravention.

The Fair Work Ombudsman recently commenced legal action against the owner of another nail salon in Adelaide, alleging more than \$7000 in underpayment of five employees - read media release: [Adelaide nail salon operator faces court \(http://www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/january-2017/20170130-hongyen-litigation-mr\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/january-2017/20170130-hongyen-litigation-mr) .

Last year, the operators of an Adelaide hairdressing salon, led by a Chinese immigrant, were penalised \$112,000 for underpaying two Taiwanese hairdressers - read media release: [Salon operator penalised \\$112,000 for "self-serving piece of subterfuge" in exploiting overseas workers \(http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2016-media-releases/august-2016/20160831-sonisolar-penalty-release\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2016-media-releases/august-2016/20160831-sonisolar-penalty-release) .

Ms James says it is also of concern that Mr Le, a Vietnamese migrant, had allegedly been involved in exploiting two migrant workers.

"I am increasingly concerned about the number of employers from culturally and ethnically diverse backgrounds who are exploiting workers from within their own or other ethnic communities," she said.

"This case is another chance to make it clear that the lawful obligations to pay minimum rates apply to all employees – and

employers – in Australia and they are not negotiable.

“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, the Fair Work Ombudsman recovered just over \$3 million for visa-holders and 38 of the 50 litigations filed (76 per cent) involved a visa holder.

Ms James says she welcomes the Government’s commitments to enhance workplace laws to better protect vulnerable workers, including increasing applicable penalties for serious record-keeping contraventions.

Employers and employees seeking assistance can visit www.fairwork.gov.au or phone 13 13 94. An interpreter service is available by calling 13 14 50.

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

The Fair Work Ombudsman’s Pay and Conditions Tool (PACT), available on the website, can assist business owners to calculate pay rates applicable to their business and templates for pay slips and time-and-wages sheets are available for free download.

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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Contact us

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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