

Melbourne CBD outlets facing court for allegedly exploiting overseas workers

28 November 2017

The Fair Work Ombudsman has commenced legal action against the operators of a café and a retail outlet in the Melbourne CBD for allegedly paying three overseas workers as little as \$11 an hour, resulting in almost \$45,000 in underpayments.

Facing the Federal Circuit Court are Photoplus Australia Pty Ltd, which operates the Photo Plus photography and phone retail outlet on Swanston Street, and Choi Brothers Pty Ltd, which operates a café trading as Bread Kingdom on Lonsdale Street.

The Fair Work Ombudsman alleges that two employees at the Photo Plus outlet and a third employee who worked at both Photo Plus and Bread Kingdom were underpaid a total of \$45,950 for various periods of work in 2016.

The Fair Work Ombudsman has also commenced legal action against Melbourne man Seung-Geun Choi, who was an owner and sole director of both businesses at that time.

It is alleged Mr Choi was involved in record-keeping and pay slip contraventions and in failing to provide employees with a Fair Work Information Statement when they commenced employment.

A Chinese worker who was on a 417 working holiday visa and an international student from Taiwan were allegedly underpaid \$6920 and \$12,578 respectively for work at the Photo Plus outlet.

The third worker, a Chinese national who was on a 462 work and holiday visa, was allegedly underpaid \$25,452 for work at both the Photo Plus and Bread Kingdom outlets.

The workers lodged underpayment allegations with the Fair Work Ombudsman after allegedly being paid flat rates of between \$11 and \$14 for all hours worked.

Under the applicable Awards, they were allegedly entitled to receive more than \$19 an hour, plus casual loadings, for ordinary hours and higher rates for weekend and public holiday work.

The workers have now been back-paid in full.

Fair Work Ombudsman Natalie James says a key factor in the decision to commence legal action was that in 2013 the agency had identified pay slip issues at Photoplus Australia during a proactive audit campaign.

“We provided the business with information on how to comply with these laws and Seung-Geun Choi made a commitment, on behalf of Photoplus, to comply with those obligations,” Ms James said.

“Businesses need to understand that we do come back and check that our advice is being followed. Operators who ignore the agency and continue to operate unlawfully can expect to find themselves in court.

“Employers should also be aware that we treat exploitation of vulnerable workers particularly seriously.”

Photoplus Australia Pty Ltd and Choi Brothers Pty Ltd face penalties of up to \$54,000 per contravention, while Mr Choi faces penalties of up to \$10,800 per contravention.

A penalty hearing is scheduled in the Federal Circuit Court in Melbourne on 6 April 2018.

The Fair Work Ombudsman recently published an open letter to international students to encourage them to seek free help from the agency if they experience any issues while working in Australia.

“We are seeking to raise awareness among international students that in line with an agreement between the Fair Work Ombudsman and the Department of Immigration and Border Protection, you can seek our assistance without fear of your visa being cancelled, even if you’ve worked more hours than you should have under your visa,” Ms James said.

Employers and employees can visit www.fairwork.gov.au or call the Fair Work Infoline on 13 13 94 for free advice and assistance about their rights and obligations in the workplace.

Small business operators can opt to receive priority service and a free interpreter service is available on 13 14 50.

The Fair Work Ombudsman's online tools and resources can assist employers to determine their applicable Award, as well as classification and pay rates, allowances, overtime and penalty rates.

The Pay and Conditions Tool (PACT) provides advice about pay, shift, leave and redundancy entitlements and there are templates for pay slips and time-and-wages records.

The Fair Work Ombudsman recently launched its popular Anonymous Report function in 16 languages other than English, enabling non-English speakers to report potential workplace breaches in their own language, without being identified. The tool can be accessed at www.fairwork.gov.au/inlanguageanonymousreport (<http://www.fairwork.gov.au/inlanguageanonymousreport>) .

The Fair Work Ombudsman's 'Record My Hours' smartphone app (www.fairwork.gov.au/how-we-will-help/how-we-help-you/record-my-hours-app) is aimed at tackling the persistent problem of underpayment of vulnerable young workers by using geofencing technology to provide workers with a record of the time they spend at their workplace. The app can be downloaded from the App Store and Google Play.

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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Media inquiries:

Ryan Pedler, Assistant Director - Media

Mobile: 0411 430 902

ryan.pedler@fwo.gov.au (<mailto:ryan.pedler@fwo.gov.au>)

Page reference No: 7798

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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