

## **\$306,000 penalty for Perth cleaning operators who underpaid overseas workers**

30 October 2017

The Fair Work Ombudsman has secured near-record WA penalties of \$306,000 against a cleaning company that failed to pay a number of young overseas workers anything for work at a Perth hotel.

Perth man Blagojce Djoneski has been penalised \$51,000 and his company Goldfinger Facility Management Pty Ltd has been penalised \$255,000, in the Federal Circuit Court.

In addition, the Court has ordered the company to rectify \$26,627 in underpayments of six workers it underpaid for various periods of work in 2014.

The penalties and back-payment order are the result of an investigation and legal action by the Fair Work Ombudsman.

In 2014, Djoneski's company had a cleaning contract with The Melbourne Hotel, located in the Perth CBD, and four of the underpaid workers were overseas workers that the company supplied to work as housekeepers at the hotel.

The housekeepers – three from South Korea and one from the UK – were in Australia on 417 working holiday visas at the time. Three of them were aged under 25.

They were each paid nothing despite performing between two and four weeks' work at the hotel, leaving them owed a combined \$9359.

Goldfinger also failed to pay any wages to a fifth overseas worker – an Indian national employed as a marketing specialist on a Temporary Business Entry Visa (Class UC) – who was entitled to more than \$4000 for 18 weeks' work.

The sixth underpaid worker - an Australian citizen who was a general manager at Goldfinger – was paid some wages but was short-changed more than \$13,000.

Pay slip laws were also contravened.

In his judgment, Judge Antoni Lucev said the contraventions were "serious" and that the underpayment of the five overseas workers included "a complete, conscious and deliberate failure on the part of Goldfinger and Mr Djoneski to pay the employees at all".

Judge Lucev said there had been "a complete disregard for Goldfinger's legal obligations as an employer" and there had been an "absence of any expression of contrition, regret or acceptance of wrongdoing" from Djoneski and his company.

Judge Lucev also said the underpayment sums "were very significant to the employees" and that the "the penalty to be imposed should reflect the deliberate nature of the contraventions".

The \$306,000 in penalties are the second largest secured by the Fair Work Ombudsman in a Western Australian case.

The largest penalties of \$343,860 were secured against a Perth cleaning company trading as Housekeeping Pty Ltd and its manager Catherine Paino-Povey in 2013 for deliberately underpaying six cleaners, including five overseas workers.

The penalties against Djoneski and his company are also the seventh largest nationally in any case brought by the Fair Work Ombudsman, with three of the top seven cases involving a cleaning business.

In his judgment, Judge Lucev said: "The Court also observes that it is now almost notorious that there are significant pockets of non-compliance in relation to the payment of wages and entitlements, either at all or correctly, in the commercial cleaning industry, and the Court notes that there was evidence in these proceedings as to the significant action undertaken by the FW Ombudsman in endeavouring to deal with and ensure that employers paid employees in the commercial cleaning industry their correct wages and entitlements."

Acting Fair Work Ombudsman Kristen Hannah says the substantial penalties are a stark reminder that businesses that exploit overseas workers will face the full weight of the law.

"The Courts have again proven they will show no leniency to employers who benefit by exploiting visa holders, particularly in such a blatant manner involving no payments at all to five of the workers," Ms Hannah said.

“It is another chance to make it clear that lawful minimum rates apply to all employees in Australia and they are not negotiable – regardless of the period of employment.

“We treat cases involving underpayment of overseas workers particularly seriously because we are conscious that they can be vulnerable due to a lack of awareness of their entitlements, language barriers and a reluctance to complain.”

Ms Hannah says the cleaning industry remains a priority for her Agency and it was disappointing to see another cleaning company underpaying overseas workers.

“The Fair Work Ombudsman has assisted the cleaning industry in developing the ‘Cleaning Accountability Framework’ (CAF), a scheme that provides CAF certification to property if all participants in the cleaning supply chain meet compliance requirements.

“We’d encourage any business who outsources their cleaning services to make sure they are CAF certified,” Ms Hannah said.

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