

## \$140,000 in penalties for Degani café

21 December 2018

The operators of a Degani café in Melbourne's north-east have been penalised over \$140,000 for underpaying staff and providing inspectors with false records, following legal action by the Fair Work Ombudsman.

Greenvale man Sajid Amin, who runs and part-owns the Degani outlet at Greensborough, has been penalised \$23,562 in the Federal Circuit Court. A company Mr Amin is a director of, SHMAP Group Pty Ltd, has been penalised a further \$117,810.

SHMAP Group held a franchise agreement for the Greensborough outlet with Degani Bakery Café Pty Ltd, a subsidiary of Degani Australia Pty Ltd. Fair Work Inspectors discovered the underpayments during a proactive audit activity (<https://www.fairwork.gov.au/about-us/news-and-media-releases/2018-media-releases/august-2018/20180807-degani-media-release>) of Degani outlets.

Mr Amin and SHMAP Group admitted in Court that they underpaid 15 employees at the Greensborough Degani outlet a total of \$12,506. The employees included four teenagers - one aged just 15 - and four adult migrant workers from China and Malaysia.

The Greensborough Degani employees were underpaid their minimum hourly rates, penalty rates and other entitlements over a nine-week period in 2016 as a result of being paid flat rates as low as \$12 an hour. They have been back-paid in full.

Fair Work Ombudsman Sandra Parker said the penalty imposed by the Court highlights that underpayment of vulnerable workers will not be tolerated.

"We took this company to court because the conduct involved two of the most vulnerable groups in our workforce - young workers and workers from non-English speaking backgrounds. These groups are at risk as they may not seek help because of language and cultural barriers, concerns about visa status, or they may be unaware of their workplace rights," Ms Parker said.

The Court found Mr Amin and SHMAP Group also breached workplace laws by failing to issue pay slips and providing Fair Work inspectors with false records during the investigation.

"The conduct in this case was further aggravated with the employer hampering our investigation by providing inspectors with falsified records. We will take enforcement action against any business that deliberately contravenes Australia's workplace laws," Ms Parker said.

The underpayments occurred despite Mr Amin knowing about SHMAP Group's lawful obligations to its employees under the relevant Award, including through having completed a Fair Work Ombudsman online training course and having received advice from Degani Bakery Café Pty Ltd.

Judge Philip Burchardt found that it was clear the breaches were deliberate and said Mr Amin "has roundly sought to blame everyone but himself" for the breaches.

"Not only does the evidence suggest that some endeavours were made to educate him, it is for him as the employer, and for the employer itself through him, properly to inform themselves, particularly when they were on clear notice that obligations were extant," Judge Burchardt said.

Judge Burchardt found that the underpaid workers were vulnerable.

"The evidence shows that the employees were not in a position to bargain meaningfully with Mr Amin and a number of the employees were either young and/or students and/or on restrictive visas," Judge Burchardt said.

In addition to the penalties, the Court ordered Mr Amin to undertake training and education using the FWO's Online Learning Centre.

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