

Court action for alleged underpayments, false records at Degani café

26 February 2018

The operator of a Degani café in Melbourne's north-east is facing Court after he allegedly used false records to conceal more than \$12,000 in underpayments of staff, including teenagers and overseas workers.

The Fair Work Ombudsman has commenced legal action in the Federal Circuit Court against Greenvale man Sajid Amin, who manages and part-owns the Degani outlet at Greensborough.

Also facing Court is a company Mr Amin is a director of, SHMAP Group Pty Ltd, which holds a franchise agreement for the outlet with Degani Bakery Café Pty Ltd, a subsidiary of Degani Australia Pty Ltd.

It is alleged Mr Amin and SHMAP Group underpaid 15 employees at the Degani outlet in Greensborough a total of \$12,506 over a period of nine weeks between September and November 2016.

The employees included four teenagers, with one aged just 15, and two adult overseas workers from China and Malaysia.

It is alleged that the largest individual underpayment was of a 19-year-old employee who was paid rates as low as \$15 an hour despite at the time being entitled to base rates including casual loading of \$20.09, weekend rates of up to \$24.11 and up to \$40.18 on public holidays. The employee was allegedly underpaid a total of \$1763.

It is alleged that Mr Amin and SHMAP Group also contravened workplace laws by creating false or misleading records and providing them to the Fair Work Ombudsman during its investigation.

It is alleged Mr Amin asked the 19-year-old employee who was underpaid the largest individual amount to sign blank timesheets, before making false entries in the timesheets, understating the number of hours the employee had worked.

It is also alleged that Mr Amin asked another worker to falsely record hours that he had performed on Australia Day and Labour Day on alternative days which did not attract public holiday penalty rates.

The Fair Work Ombudsman discovered the alleged underpayments during a proactive audit activity involving 14 Degani branded cafes in and around Melbourne and two at Rockhampton, in Queensland.

The audits focused on cafes operated under franchisee or licensee arrangements and checked whether workers were being paid their lawful minimum entitlements.

All underpayments have now been back-paid in full.

The Fair Work Ombudsman alleges the contraventions occurred despite Mr Armin 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.

Fair Work Ombudsman Natalie James says the serious nature of the alleged contraventions and the involvement of vulnerable workers were important factors in the decision to commence legal action.

"Allegations that young workers and migrant workers were underpaid are particularly serious, especially when coupled with claims that some were asked to participate in the falsification of records to conceal these unlawfully low rates," Ms James said.

"We know that younger workers and workers from overseas backgrounds may be more reluctant to speak up if they think something is wrong. This is why we are targeting employers who seek to take advantage of these vulnerabilities."

SHMAP Group Pty Ltd faces maximum penalties of up to \$54,000 per contravention and Mr Amin faces maximum penalties of up to \$10,800 per contravention.

In addition, the Fair Work Ombudsman is seeking Court orders for SHMAP Group to commission an audit of its compliance with workplace laws and to commission workplace relations training for managerial staff.

A directions hearing is listed in the Federal Circuit Court in Melbourne on 26 February.

It was [announced this month \(www.fairwork.gov.au/about-us/news-and-media-releases/2018-media-releases/february-](http://www.fairwork.gov.au/about-us/news-and-media-releases/2018-media-releases/february-)

[2018/20180201-degani-bentons-eu-release](#)) that the Fair Work Ombudsman's compliance activity focused on Degani outlets has also resulted in a Degani Bakery Café in Mornington, south of Melbourne, entering into an Enforceable Undertaking after underpaying staff almost \$10,000.

The Fair Work Ombudsman will publish a public report on the compliance activity after its completion.

Employers and employees can seek assistance at www.fairwork.gov.au or contact the Fair Work Infoline on 13 13 94. A free interpreter service is available on 13 14 50.

The Pay and Conditions Tool (PACT) (<https://calculate.fairwork.gov.au/>) provides advice about pay, shift, leave and redundancy entitlements.

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 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.

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