

Melbourne supermarket operator to overhaul workplace practices

5 November 2018

A specialty supermarket operator in Melbourne will overhaul its workplace practices under an Enforceable Undertaking with the Fair Work Ombudsman after they were found to have underpaid three Chinese workers a total of almost \$75,000.

Ying "Alex" Zhang and his company Oriental Food Australia Pty Ltd, which operates five supermarkets under the Crown Asian Supermarket and Kyoto Mart brands, entered into the Enforceable Undertaking after underpaying the three casual employees between July 2014 and September 2016.

The three employees are all Chinese nationals who speak limited English. They were in Australia on student or working holiday visas during their employment. Mr Zhang is also of Chinese heritage.

Inspectors found that the three employees, who worked at the two Crown Asian Supermarkets located on Spencer Street and Elizabeth Street in the Melbourne CBD, had been paid unlawfully low flat hourly rates, resulting in underpayment of the ordinary hourly rate and weekend and public holiday penalty rates they were entitled to under the General Retail Industry Award 2010.

Mr Zhang and his company also breached workplace laws by failing to pay the employees a clothing allowance, failing to provide rest and meal breaks, and failing to provide the workers with a Fair Work Information Statement when they commenced employment.

Fair Work Ombudsman Sandra Parker said the Undertaking requires the company to overhaul workplace practices across all of its supermarket stores.

"Enforceable Undertakings such as this one require major improvements from employers, which creates sustainable compliance improvements that benefit current and future employees," Ms Parker said.

Ms Parker said Oriental Food Australia had narrowly avoided litigation by promptly backpaying the workers in full, agreeing to make a significant donation to the Job Watch Employment Rights Legal Centre and committing to a number of measures aimed at ensuring future compliance across all stores owned by Mr Zhang.

"Every worker in Australia has the same workplace rights, regardless of their citizenship or visa status, and paying migrant workers a 'market rate' that undercuts the applicable minimum Award rates is unlawful and unacceptable," Ms Parker said.

Among a range of comprehensive undertakings, Oriental Food Australia is required to engage an external professional to complete three audits of the pay and conditions of employees across its supermarkets and rectify any underpayments found.

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Download the Oriental Food Australia Pty Ltd Enforceable Undertaking (DOCX 53.8KB) (<https://www.fairwork.gov.au/ArticleDocuments/1416/oriental-food-australia-pty-ltd-enforceable-undertaking-redacted.docx.aspx>) (PDF 910.8KB) (<https://www.fairwork.gov.au/ArticleDocuments/1416/oriental-food-australia-pty-ltd-enforceable-undertaking-redacted.pdf.aspx>)

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