

Court penalises IGA supermarket operator

22 October 2018

The Fair Work Ombudsman has secured a total of \$320,263 in penalties in Court after an operator was found to have deliberately underpaid six workers at two IGA supermarkets in Melbourne, despite having been put on notice to comply.

Said “Sam” Haddad, who is the operator and majority owner of the Fairfield IGA supermarket, and was formerly the majority owner and operator of the Altona IGA supermarket, has been penalised \$53,377 in the Federal Circuit Court.

In addition, two companies Mr Haddad is a shareholder and director of, Deja Vu Elite Security Pty Ltd and Hadya Nominees Pty Ltd, have been penalised \$157,950 and \$108,936, respectively.

The Court imposed the penalties after Mr Haddad and the companies admitted to underpaying six employees at the Fairfield and Altona IGA supermarkets a total of \$11,373 between November 2013 and November 2015. Three of the employees were aged between 19 and 23 at the time of the conduct.

The underpayments occurred despite the Fair Work Ombudsman having previously provided Mr Haddad with information about his obligations to pay minimum lawful pay rates after investigating prior underpayment allegations from workers.

Mr Haddad was also a member of the Master Grocers Association, which had provided him with information about employee entitlements.

The agency investigated again after receiving further requests from employees at the two IGA supermarkets. Inspectors discovered that two employees at the Altona IGA had been underpaid a total of \$7466 and that four employees at the Fairfield IGA had been underpaid a total of \$3907.

The employees were paid flat rates ranging from \$15 to \$20 an hour, resulting in underpayments of the minimum hourly rates, casual loadings, overtime rates and penalty rates for evening, weekend and public holiday work they were entitled to under the General Retail Industry Award. One employee was not paid at all for one day of work. All workers have been back-paid.

Fair Work Ombudsman Sandra Parker said it was unacceptable that breaches occurred despite inspectors putting the operator on notice about his workplace obligations.

“All employers have a clear obligation under Australia’s workplace laws to pay correct wages and entitlements, and rectify any underpayment of their employees. If companies do not improve compliance with workplace laws, we will take court action to enforce the law.”

“The underpayment of young workers is particularly serious as they can be unaware of their workplace rights or reluctant to complain. The Court’s significant financial penalties serve as a warning for all businesses who fail to act on our advice about workplace laws,” Ms Parker said.

Mr Haddad and Deja Vu Elite Security Pty Ltd also breached workplace laws during the investigation by manufacturing pay records for employees at the Fairfield IGA that indicated they had been paid the correct award rates when they had not, and providing the false records to Inspectors.

Other breaches across the two stores included failure to comply with a Notice to Produce; failure to pay annual leave entitlements, uniform allowance and an entitlement payable when shifts were less than 12 hours apart; and failure to adhere to laws relating to pay slips, frequency of pay and agreeing in writing to a regular pattern of work with part-time employees.

Judge Heather Riley found that the underpayments were deliberate and that there was “considerable need in this case for both general and specific deterrence”.

“It seems to me that the conduct of the respondents in this case was egregious. It was deliberate. There has been no apology to the employees affected by the respondents’ conduct,” Judge Riley said.

In addition to imposing the penalties, the Court made orders requiring a workplace notice detailing employee entitlements to be displayed at the Fairfield IGA and other stores covered by the General Retail Industry Award operated by Deja Vu Elite Security Pty Ltd or Mr Haddad.

The Court also ordered Deja Vu Elite Security Pty Ltd to pay \$11,616.90 in legal costs to the Fair Work Ombudsman and ordered

Hadya Nominees to make outstanding superannuation contributions for two workers.

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NOTE: The current operators of the Altona IGA supermarket had no involvement in any underpayment matters and no allegations are made against them.

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