

Day spa operator back-pays visa holders

23 July 2019

The operator of six day spa centres in Sydney has back-paid \$65,939.87 to 13 employees, and admits he made unlawful deductions from their salary and underpaid penalty rates and annual leave entitlements.

Sea One North Pty Ltd, trading as Endota Spa Sydney, and its director Mr Chris Barbour have signed a court-enforceable undertaking (EU) with the FWO after admitting to breaching workplace laws.

The FWO investigated Endota Spa Sydney after it received requests for assistance from two skilled 457 visa holders, who alleged the company was making deductions from their pay to cover visa-related costs.

Fair Work inspectors found that between May 2014 and February 2018 the company made unlawful fortnightly deductions from the pay of thirteen 457 visa workers, totalling \$58,025.

Endota Spa Sydney and Mr Barbour deducted \$250 per fortnight from the workers' pay and stopped once the costs of the workers' visa sponsorship process had been reached, which was as much as \$7000 for an individual worker. This amount was withheld from the workers and Mr Barbour promised it would be repaid after they completed a specified employment term with Endota Spa Sydney.

Affected employees were foreign nationals from various countries including Poland, Ireland, Britain and Japan.

The FWO also recovered \$7,914.87 in unpaid penalty rates and annual leave entitlements. The company has back-paid all workers in full for the unlawful deductions and underpayments, and has co-operated fully with FWO throughout the investigation process.

Fair Work Ombudsman Sandra Parker said deducting pay from workers' salary was only allowed in limited circumstances and must be principally for their benefit.

"Businesses can't use deductions from workers' salaries as a bargaining chip to keep them employed in the business. Endota Spa and Mr Barbour have acknowledged their conduct breached the law and we will keep a close eye on their conduct moving forward to ensure they're meeting their obligations under workplace laws," Ms Parker said.

"This significant back-payment bill should also serve as a warning to all employers that it is not acceptable to underpay migrant workers, or make unlawful deductions. Employers who do this will get caught."

Under the EU, the company will implement audits across its six New South Wales spa centres to ensure employees are receiving their correct entitlements. The audits will take place in 2019 and 2020 at spas in Martin Place (Sydney); Four Seasons (Sydney); Crows Nest; Paddington; Rozelle and Chatswood.

The company must also ensure all managers complete workplace relations training, and will also make a contrition payment of \$10,000 to the Commonwealth Government's Consolidated Revenue Fund.

Endota Spa Sydney is a franchisee of Endota (No 1) Pty Ltd, trading as Endota Spa, which markets itself as Australia's largest day spa and employs over 1000 employees in over 100 spas.

Employers and employees can visit www.fairwork.gov.au or call the Fair Work Infoline on 13 13 94 for free advice and assistance about their workplace rights and obligations. A free interpreter service is available on 13 14 50.

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Sign up to receive the Fair Work Ombudsman's media releases direct to your email inbox at www.fairwork.gov.au/mediareleases (www.fairwork.gov.au/mediareleases) .

Download the [Sea One North Enforceable Undertaking \(DOCX 153.2KB\)](https://www.fairwork.gov.au/ArticleDocuments/545/sea-one-north-pty-ltd-enforceable-undertaking-redacted.docx.aspx) (<https://www.fairwork.gov.au/ArticleDocuments/545/sea-one-north-pty-ltd-enforceable-undertaking-redacted.docx.aspx>) (PDF 733.6KB) (<https://www.fairwork.gov.au/ArticleDocuments/545/sea-one-north-pty-ltd-enforceable-undertaking-redacted.pdf.aspx>) .

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