

Swan Hill fruit farmer penalised

23 May 2019

The Fair Work Ombudsman has secured \$144,000 in penalties against a fruit farmer for deliberately underpaying two Malaysian fruit pickers and using false records to try to cover it up.

Zucco Farming Pty Ltd, which operates a stone fruit farm at Woorinen near Swan Hill, has been penalised \$120,000 and the company's sole director and part-owner Chris Zucco has been penalised a further \$24,000, by the Federal Circuit Court.

The affected employees were Malaysian nationals on bridging visas when they were paid unlawfully low, flat rates for work performed at the farm in 2015 and 2016. A man aged in his early 20s and his father-in-law were underpaid a total of \$13,529.

Fair Work Ombudsman Sandra Parker said the regulator is cracking down on migrant worker exploitation in the horticulture industry.

"The deliberate and systematic underpayment of two vulnerable workers is precisely the sort of conduct we are targeting and trying to stamp out in the horticulture industry," Ms Parker said.

"If blatant breaches of workplace laws occurred today, the maximum penalties that can be applied in Court can be up to 10 times higher under the Protecting Vulnerable Workers laws.

"Improving workplace compliance in the horticulture industry continues to be a priority for the Fair Work Ombudsman, and we urge any workers with concerns to contact us," Ms Parker said.

Fair Work Ombudsman inspectors investigated Zucco Farming after receiving requests for assistance from the two workers.

The workers were paid flat hourly rates of between \$15.41 and \$16.77 by Zucco Farming for all hours worked to pick fruit and perform pruning, packing and cleaning duties.

Under the Horticulture Award 2010 at the time, the workers were entitled to minimum ordinary rates, including casual loading, of \$21.61 for all hours, except for public holidays when they were entitled to \$38.90 per hour.

When one of them queried Mr Zucco as to why their pay slips listed a rate of \$21 an hour and asked to be paid lawful rates, Mr Zucco informed them "I am not paying you \$21... I do that just for my bookwork."

Mr Zucco and his company also breached workplace laws by knowingly providing false and misleading records to inspectors that understated the number of hours worked by the employees and overstated the rate of pay of the employees. This gave the appearance that the two workers had been paid higher hourly rates than was actually the case.

Judge Anthony Kelly found that Mr Zucco and Zucco Farming had "made deliberate and conscious decisions to underpay the employees" and had "persistently attempted to deceive the FWO".

"They deliberately sought to mislead the FWO, both before and after the proceeding had commenced," Judge Kelly said.

"The nature of the contraventions and the circumstances in which they were committed are significant as evidencing the serious exploitation of employees and a deliberate falsification of records," Judge Kelly said.

Judge Kelly said that making declarations of contraventions would "provide due warning" of the consequences for such conduct.

"I accept that it is necessary that the penalty imposed reflects the strong need for general deterrence in circumstances where employers may be tempted to prey on the vulnerability of employees, whether by reason of their migratory status or lack of knowledge of their legal entitlements," Judge Kelly said.

In addition to imposing the penalties, Judge Kelly has ordered Zucco Farming to display a workplace notice with details including key employee entitlements under the Horticulture Award 2010 and how to access the FWO's Record My Hours app.

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.

Follow the Fair Work Ombudsman [@fairwork_gov_au](https://twitter.com/fairwork_gov_au) (http://twitter.com/fairwork_gov_au) or find us on Facebook www.facebook.com/fairwork.gov.au (http://www.facebook.com/fairwork.gov.au) .

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) .

Media inquiries:

Michael Anderson, Assistant Media Director

Mobile: 0409 120 830

michael.anderson@fwo.gov.au (mailto:michael.anderson@fwo.gov.au)

Page reference No: 8972

Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

Need language help?

Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

The Fair Work Ombudsman is committed to providing advice that you can rely on. The information contained on this website is general in nature. If you are unsure about how it applies to your situation you can call our Infoline on 13 13 94 or speak with a union, industry association or workplace relations professional. Visitors are warned that this site may inadvertently contain names or pictures of Aboriginal and Torres Strait Islander people who have recently died.