

## Coffee Club franchisee faces court

17 September 2019

The Fair Work Ombudsman has commenced legal action against the operator of a Coffee Club outlet in Victoria, alleging they underpaid two young workers a total of more than \$15,000 and provided false records to inspectors.

Facing the Federal Circuit Court are Edison Peng and his company JMSL Pty Ltd, which owns and operates the Coffee Club franchise outlet at the Westfield Geelong shopping centre.

It is alleged that two young employees at the outlet were paid flat rates as low as \$15 per hour, which resulted in underpayment of the junior hourly rates, casual loadings and penalty rates for weekend and public holiday work they were entitled to under the Restaurant Industry Award 2010.

The two workers were allegedly underpaid a total of \$15,412.

It is alleged that one of the workers, aged 19 to 20, was underpaid \$12,910 between May 2016 to August 2017 and the other, aged 20, was underpaid \$2,502 over a three-month period in 2018.

Fair Work Inspectors investigated the underpayment allegations after the two workers contacted the FWO for help.

“The alleged payment of low, flat rates that undercut Award entitlements is completely unacceptable conduct and we treat underpayment of young workers particularly seriously,” Fair Work Ombudsman Sandra Parker said.

“Enforcing compliance with workplace laws in the fast food, restaurant and cafe sector continues to be a priority for the Fair Work Ombudsman. Employers in this sector are on notice that they must pay all employees according to Australia’s lawful minimum pay rates.”

It is alleged that Mr Peng and JMSL Pty Ltd also breached laws during the Fair Work Ombudsman’s investigation by providing false and misleading records and pay slips to Fair Work inspectors that overstated the rates the two employees were paid.

“Employers should be aware that the Fair Work Ombudsman takes allegations of false and misleading records extremely seriously,” Ms Parker said. “Any employees with concerns about false records or pay slips should contact us for assistance.”

Mr Peng faces penalties of up to \$12,600 per contravention and JMSL Pty Ltd up to \$63,000 per contravention. Most of the alleged underpayment has been rectified and the FWO is seeking court orders requiring Mr Peng and his company to pay the outstanding amount. The FWO is also seeking court orders requiring Mr Peng to register with the My Account portal at [www.fairwork.gov.au](http://www.fairwork.gov.au) and complete workplace relations training.

A directions hearing is listed in the Federal Circuit Court in Melbourne on 12 November 2019.

It is the second time the Fair Work Ombudsman has taken legal action against a Coffee Club franchisee. In 2017, Fair Work Ombudsman secured more than \$180,000 in penalties ([www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/may-2017/20170504-coffee-club-litigation](http://www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/may-2017/20170504-coffee-club-litigation)) against a former Coffee Club café franchisee in Brisbane for contraventions including requiring an overseas worker to pay back \$18,000 of his wages through an unlawful cash-back payment.

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