

## Gold Coast restaurant operators penalised

18 December 2020

The Fair Work Ombudsman has secured \$60,480 in penalties in court against the operators of the Govinda's Surfers Paradise restaurant on the Gold Coast.

The Federal Circuit Court has imposed a \$45,675 penalty against the company that operates the restaurant, Inverted Mountain Pty Ltd; a \$9,135 penalty against company director Zardi Manning; and a \$5,670 penalty against company director Christopher Kruize.

The penalties were imposed in response to the company and both directors breaching record-keeping and pay slip laws and the company and Mr Manning failing to comply with a Compliance Notice requiring the company to calculate and back-pay entitlements owing to 14 employees, including a number of young workers and visa holders.

In addition to the penalties, the Court has ordered the company to take the action required by the Compliance Notice, which includes calculating and rectifying any underpayments in full, plus superannuation and interest.

Fair Work Ombudsman Sandra Parker said businesses that fail to act on Compliance Notices face court-imposed penalties in addition to having to back-pay any underpaid staff.

"We make every effort to secure voluntary compliance with Compliance Notices but where they are not followed, we are prepared to take legal action to ensure workers receive their lawful entitlements," Ms Parker said.

"Employers also need to be aware that improving compliance in the fast food, restaurant and café sector continues to be a priority for the Fair Work Ombudsman. Any employees with concerns about their pay or entitlements should contact us for free advice and assistance."

Fair Work Inspectors commenced an investigation into the Govinda's Surfers Paradise restaurant in 2019 after receiving a request for assistance from a former employee, a French worker on a working holiday visa.

The Compliance Notice was issued after a Fair Work Inspector formed a belief that Inverted Mountain, between January and May 2019, had paid employees unlawfully low, flat rates, resulting in underpayments of minimum wage rates for ordinary hours, casual loadings, and weekend and public holiday penalty rates under the Restaurant Industry Award 2010.

Judge Amanda Tonkin found that the amounts owed to the 14 employees are likely to be significant and there was "a need to send a message to others that a significant pecuniary penalty will be imposed for non-compliance".

Judge Tonkin also found that there was a need to impose penalties to deter Inverted Mountain Pty Ltd, Mr Manning and Mr Kruize from committing further breaches.

"There is a proper basis for the Court to be concerned whether the Respondents will in future continue to ignore the legal requirement for minimum rates of pay under the FW Act and the Award. No action has been taken nor is there any evidence before me to demonstrate that the Respondents have taken any steps to make recompense and/or avoid such contraventions in the future," Judge Tonkin said.

Employers and employees seeking assistance can visit [www.fairwork.gov.au](http://www.fairwork.gov.au) or call the Fair Work Infoline on 13 13 94. An interpreter service is available on 13 14 50.

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