

Former Gold Coast restaurant operator faces court

Note: FWO discontinued these proceedings on 25 June 2020.

24 January 2020

The Fair Work Ombudsman has commenced legal action in the Federal Circuit Court against the former operator of Kokum, an Indian restaurant on the Gold Coast.

Facing Court is the company that formerly operated the restaurant, Versaf Pty Ltd, and the company's sole director, Mr Sridhar Penumechchu.

The regulator alleges the company and Mr Penumechchu breached the Fair Work Act by failing to comply with a Compliance Notice requiring the company to calculate and back-pay any outstanding amounts owing to a number of restaurant employees.

Fair Work Inspectors commenced an investigation into Kokum in 2019 after receiving requests for assistance from employees.

The Compliance Notice was issued after a Fair Work Inspector formed a belief that restaurant employees had been underpaid minimum wages, casual loadings, minimum engagement pay, overtime rates, and weekend and public holiday penalty rates under the Hospitality Industry (General) Award (2010).

Inspectors issued Versaf Pty Ltd with a Compliance Notice requiring the business to calculate and rectify the alleged underpayments and produce reasonable evidence of its compliance.

Fair Work Ombudsman Sandra Parker says Compliance Notices are an important tool to recover unpaid wages, and they will be enforced where they are not followed.

"Under the Fair Work Act, inspectors can issue a Compliance Notice if they form a belief that an employer has breached certain workplace laws. Where employers do not comply with our notices, a Court can order them to pay penalties in addition to back-paying any affected employees."

"The Fair Work Ombudsman is cracking down on alleged underpayments in the fast food, restaurant and café sector, and will continue to use all its enforcement tools to ensure employers meet their lawful obligations," Ms Parker said.

The FWO is seeking a penalty against Versaf Pty Ltd and Mr Penumechchu. The company faces a maximum penalty of \$31,500, while Mr Penumechchu faces a maximum penalty of \$6,300.

The FWO is also seeking a Court Order requiring the company and Mr Penumechchu to take the action required by the Compliance Notice, including calculating any underpayments and rectifying them in full, plus superannuation and interest. A directions hearing has been listed in the Federal Circuit Court in Brisbane for 22 May 2020.

It is the second time the Fair Work Ombudsman has commenced legal action in relation to Mr Penumechchu. In November 2019, [FWO commenced legal action \(www.fairwork.gov.au/about-us/news-and-media-releases/2019-media-releases/december-2019/20191204-media-release-fwo-alleges-eu-non-compliance\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/2019-media-releases/december-2019/20191204-media-release-fwo-alleges-eu-non-compliance) against Mr Penumechchu and Saffron Indian Gourmet Pty Ltd to enforce the terms of a Court-Enforceable Undertaking that was executed with the company earlier in 2019. The matter is currently before the Court.

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