

Operators of Barry Cafe penalised

22 October 2020

The Fair Work Ombudsman has secured a total of \$232,545 in penalties in Court against the company that operates 'Barry Café', in the Melbourne suburb of Northcote, and two of its directors after they deliberately underpaid 73 staff members more than \$180,000.

The Federal Circuit Court has penalised siblings Stavros and Anastasia Petroulias \$33,919 and \$29,030 respectively and imposed a \$169,596 penalty against a company they part-own and operate, Malevi Pty Ltd.

In addition, the Court ordered the company, Mr Petroulias and Ms Petroulias to rectify the underpayments in full. To date, workers have been only partially back-paid.

In total, 73 employees were underpaid \$180,641 over a 12-month period between April 2017 and April 2018, with underpayments of individual workers ranged from \$31 to \$12,315.

Most of the underpayments related to a failure to pay employees the penalty rates and casual loadings they were entitled to under the Restaurant Industry Award 2010, with minimum wage rates also underpaid for some employees.

The Court found that the company, Mr Petroulias and Ms Petroulias (from August 2017 onwards) were aware that they were not meeting their obligations under the Award – but deliberately contravened workplace laws and exploited staff, including many young and migrant workers, by paying flat rates of \$18 to \$25 an hour.

The Court found they also deliberately contravened adverse action laws by not offering further shifts to an employee who challenged his unlawfully low rates – and then continued to underpay other employees. Record-keeping laws were also breached.

Fair Work Ombudsman Sandra Parker said employers need to be aware that improving compliance in the fast food, restaurant and café sector continues to be a priority for the FWO.

"Employers are on notice that they must pay all workers according to Australia's lawful minimum pay rates or risk significant financial penalties. We prioritise matters involving vulnerable workers, especially if we think employers are deliberately breaking the law," Ms Parker said.

"We also treat very seriously instances of employers taking any sort of action against an employee in response to them seeking to have their lawful workplace rights respected. Any workers with concerns about their rights should contact us for free advice and assistance."

Judge Riley said the exploitation of vulnerable workers was an aggravating feature of the matter and Malevi Pty Ltd, Mr Petroulias and Ms Petroulias had failed to display genuine contrition.

"I do not accept that the respondents are genuinely contrite. Rather, I consider that they are very sorry that they have been caught, and are facing a substantial penalty," Judge Riley said.

Judge Riley said there was a need to impose penalties that would deter the respondents from further contraventions and deter others from similar conduct.

"The hospitality industry is notorious for its underpayment of employees, and noncompliance with other industrial obligations," Judge Riley said.

The Court ordered Malevi Pty Ltd to commission an independent audit of its wage payment practices and provide the results to the FWO, display a workplace notice detailing workers' rights, and register with the My Account portal at www.fairwork.gov.au (<http://www.fairwork.gov.au/>) and complete the courses for employers. The Court also ordered Mr Petroulias and Ms Petroulias to obtain workplace training.

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 rights and obligations in the workplace. 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:

Ryan Pedler, Assistant Director - Media

Mobile: 0411 430 902

ryan.pedler@fwo.gov.au (<mailto:ryan.pedler@fwo.gov.au>)

Page reference No: 9777

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.