

## WA fruit packing company penalised

22 October 2020

The Fair Work Ombudsman has secured \$22,680 in court penalties against Western Australian fruit packing company Corporation Sun Pty Ltd and its chief executive officer Michael Le.

The Federal Circuit Court has imposed a \$18,900 penalty against the company, which provided fruit packing services to Taddei Orchard in Carabooda, and a \$3,780 penalty against Mr Le.

The penalties were imposed after the Court decided the company and Mr Le breached the Fair Work Act by failing to comply with a Compliance Notice that required the company to back-pay entitlements for 11 employees.

The affected workers, all Taiwanese nationals in Australia on working holiday visas, were underpaid for work sorting and packing fruit between January and October 2017. The workers were aged between 22 and 30 at the time of the underpayments.

The Compliance Notice was issued in 2018 after a Fair Work Inspector formed a belief that the 11 workers had been underpaid a combined \$20,111 owed under the Horticulture Award 2010.

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 need to be aware that underpayment of vulnerable workers in the horticulture 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 Corporation Sun in 2017 after receiving requests for assistance from employees.

Judge Christopher Kendall said Corporation Sun and Mr Le “were given ample opportunity to comply with the Compliance Notice” and there had been no contrition shown for their breaches.

“The respondents’ cavalier approach towards the Compliance Notice reflects an unacceptable disregard for its statutory obligations,” His Honour said.

Judge Kendall said Corporation Sun and Mr Le’s “failure to comply with the Compliance Notice has caused public resources to be expended on proceedings that could have, and should have, been avoided.”

In 2019-20, 44 per cent of the FWO’s litigations filed involved visa holders, and the total amount recovered for visa holders was \$1.7 million. The FWO also secured nearly \$3 million in court awarded penalties through litigations involving visa holders.

The FWO’s Horticulture Showcase ([www.fairwork.gov.au/horticulture-showcase-archive/default](http://www.fairwork.gov.au/horticulture-showcase-archive/default)) has self-audit tools, a piecework agreement builder and resources for migrant workers. Employers and employees 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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