

Adelaide trolley collecting company fined \$35,000 for record-keeping breaches

2 May 2010

An Adelaide trolley-collecting company and its director have been fined a total of \$35,342 for failing to keep employment records for more than 50 mostly young foreign workers suspected of being grossly underpaid.

Honest & Frank Pty Ltd has been fined \$29,452 and the company's part-owner and sole director Teh Seok (Paul) Hyun a further \$5890.

The South Australian Industrial Relations Court has ordered the penalties to be paid within 28 days following a prosecution by the Fair Work Ombudsman.

Industrial Magistrate Stephen Lieschke imposed the fines after Hyun admitted he was centrally involved in Honest & Frank committing seven breaches of workplace laws relating to employment records.

Five of the breaches relate to a failure to keep time-and-wages sheets and other basic employment records for its employees and failing to issue pay slips.

Two of the breaches relate to Hyun hastily fabricating records and pay slips containing false information about pay rates and hours for more than 50 employees.

Fair Work inspectors had requested employment records from Honest & Frank as part of an investigation into suspected underpayments.

Industrial Magistrate Lieschke said the company's failure to keep employment records had prevented the Fair Work Ombudsman from determining the extent to which employees had been underpaid.

While Hyun admitted his employees were paid as little as \$8 an hour, Industrial Magistrate Lieschke found his failure to keep the required records had "prevented the Fair Work Ombudsman from taking any effective action in relation to extensive underpayments that involve a large number of people over a considerable period of time."

"More serious breaches of the regulations are difficult to imagine," Industrial Magistrate Lieschke said.

As the breaches were committed in 2007, the maximum applicable fines per breach were \$5500 for Honest & Frank and \$1100 for Hyun.

However, Fair Work Ombudsman Executive Director Michael Campbell says that under the new Fair Work Act, which came into effect on July 1, 2009, penalties are now much higher.

Penalties for record-keeping breaches have been lifted to a maximum \$16,500 for companies and \$3300 for individuals.

"It is a very serious situation when record-keeping breaches hamper the ability of inspectors to determine whether vulnerable workers have been underpaid," Mr Campbell said.

"This case serves as a reminder that we will not hesitate to pursue companies and individuals who blatantly fail to comply with their record-keeping obligations."

The trolley collectors employed by Honest & Frank worked at Adelaide shopping centres at Tea Tree Plaza, Golden Grove, Marion, Ingle Farm, West Lakes and Reynella.

The workers were predominantly young Koreans on working holiday visas or student working visas. They were often employed on a casual basis for periods as short as one month or less.

Industrial Magistrate Lieschke said Honest & Frank had operated its trolley collecting business from February, 2007 to January, 2009 but that the company no longer operated and was in the process of being deregistered.

The prosecution of Honest & Frank and Mr Hyun is the latest in a string of court actions the Fair Work Ombudsman has taken against trolley collecting service providers:

- Adelaide company NMD Investments Pty Ltd was last year fined \$41,000 and the company's sole director and manager

Giuseppe Placanica a further \$7850 for deliberately underpaying 51 supermarket trolley collectors a total of \$120,000,

- Adelaide company M & K Angeloupoulos Pty Ltd was last year fined \$40,000 for underpaying six trolley collectors about \$30,000,
- Two directors of Adelaide company Risborg Services Pty Ltd were fined a total of \$26,730 in 2008 for their involvement in Risborg underpaying 64 trolley collectors more than \$170,000, and
- In Victoria in 2008, trolley collecting company Xidis Pty Ltd was fined \$120,000 for underpaying 42 of its workers in Albury \$100,000.

The Fair Work Ombudsman promotes harmonious, productive and co-operative workplaces. It also monitors compliance and investigates breaches of national workplace laws.

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