

## SA court action over alleged sham contracting

19 October 2010

Note: Reference to prosecution in this media release is a general reference to the FWO commencing proceedings for the imposition of civil penalties and should not be taken to be a reference to criminal proceedings

The Fair Work Ombudsman has launched a prosecution against the operators of two labour-contracting companies and an Adelaide fast food outlet, alleging they engaged in sham contracting.

Facing court is Flagstaff Hill man Michael Wright, who is a director and part-owner of labour-contracting companies Contracting Solutions Australia Pty Ltd (CSA) and Labour Contracting Solutions Pty Ltd (LCS).

Also facing court is Athelstone man Daryl Lenkic and his company Blue Steel Corporation Pty Ltd.

Through his company, Mr Lenkic owned and ran the Pretzel Bakehouse outlet in the Tea Tree Plaza shopping centre in Modbury until April 2008. The outlet was formerly known as Wetzels Pretzels.

Documents lodged in the Federal Court in Adelaide allege Mr Wright hired one 15-year-old on behalf of CSA and two 15-year-olds on behalf of LCS, classified them as 'independent contractors' and paid them according to contract rates.

It is alleged Mr Wright, on behalf of CSA and LCS, then supplied the teenagers as contractors to work at the pretzel outlet and charged Mr Lenkic's company fees to make the arrangement profitable for CSA and LCS.

Fair Work Ombudsman Nicholas Wilson says it is alleged the arrangement was a breach of the sham contracting provisions of workplace laws because the teenagers were entitled to be classified as employees and receive the minimum hourly rates and penalty rates payable to casual retail food assistants.

"These teenagers were working at a fast food shop after school to earn a bit of pocket money," Mr Wilson said.

"We allege they should have been classified as employees and not as self-employed independent contractors."

The Fair Work Ombudsman is seeking Court Orders for compensation for the three young workers as well as \$4704 back-payment for one who was allegedly underpaid as a result of the unlawful employment arrangement.

The Fair Work Ombudsman is also seeking penalties against Mr Wright, Mr Lenkic, CSA, LCS and Blue Steel Corporation, who were allegedly involved in multiple breaches of workplace laws.

The maximum penalties per breach are \$33,000 for the companies and \$6600 for Mr Wright and Mr Lenkic. The case is listed for a directions hearing on November 8.

Employers or employees seeking assistance or further information should contact the Fair Work Infoline on 13 13 94 from 8am-6pm weekdays or visit [www.fairwork.gov.au](http://www.fairwork.gov.au) For translations, call 13 14 50.

Editor's note: Mr Wright is NOT the Hon Michael Wright, MP, Member for Lee

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Fair Work Online: [www.fairwork.gov.au](http://www.fairwork.gov.au)

Fair Work Infoline: 13 13 94

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Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

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