

Perth companies face court over alleged sham contracting

3 June 2011

NOTE: The allegations against Mr Paul Konsek detailed in this media release were ultimately not found in Court.

The Fair Work Ombudsman has launched a prosecution against two companies alleging they engaged in sham contracting activity affecting workers at a South Perth accommodation facility.

Facing court is Quest South Perth Holdings Pty Ltd, which formerly operated the Quest on Arlington serviced apartments on Mill Point Road.

Also facing court is Contracting Solutions Pty Ltd, which uses the ODCO contracting system to provide independent contractors to businesses.

Documents lodged in the Federal Court in Perth allege Quest South Perth Holdings and Contracting Solutions breached the sham contracting provisions of workplace laws in 2009.

It is alleged the breaches occurred when Quest South Perth Holdings, with assistance from Contracting Solutions, converted three employees at Quest on Arlington into independent contractors.

It is alleged Quest South Perth Holdings dismissed the three workers, two housekeepers and a receptionist, and immediately re-hired them as independent contractors to perform the same duties.

Fair Work Ombudsman Executive Director Michael Campbell says it is alleged Quest South Perth Holdings and Contracting Solutions committed six breaches of workplace laws. Each company faces maximum penalties of \$33,000 per breach.

It is also alleged that Contracting Solutions workplace relations manager Paul Konsek was involved in four of the breaches and Quest on Arlington former property manager Ashvin Luchmaya was involved in one of the breaches. They each face maximum penalties of \$6600 per breach.

Mr Campbell says employers need to realise that they are at serious risk of breaching the sham contracting provisions of workplace laws if they try to convert employees into independent contractors.

“Sham contracting occurs when an employer disguises or misrepresents an employment relationship as an independent contracting arrangement,” he said.

The Fair Work Ombudsman is currently conducting a national education and compliance campaign targeting sham contracting.

Employers and workers seeking advice or assistance regarding independent contracting and sham contracting can visit the Fair Work Ombudsman’s website at www.fairwork.gov.au/contractors (www.fairwork.gov.au/find-help-for/independent-contractors/independent-contractors)

They can also contact the Fair Work Infoline on 13 13 94. A free interpreter service is available by calling 13 14 50.

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Media inquiries:

Ryan Pedler, Senior Adviser, Media & Stakeholder Relations
(03) 9954 2561, 0411 430 902
ryan.pedler@fwo.gov.au

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.