

Company faces court for allegedly underpaying door-to-door sales workers

28 August 2012

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 is prosecuting a national sales and marketing company, alleging it underpaid five door-to-door sales employees a total of more than \$9000 for work they performed in Melbourne and Brisbane last year.

Facing court is Australian Sales and Promotions Pty Ltd, which specialises in direct marketing for energy retailing clients.

It is alleged that the company paid five sales workers – four in Melbourne and one in Brisbane – a combined total of only \$50 for work that they were lawfully entitled to be paid a total of \$9201 for.

Three of the Melbourne workers were on working holiday visas, including a Chinese backpacker who spoke little English and two American backpackers.

It is alleged the workers, all aged in their 20s, were recruited via job advertisements on the Gumtree and Seek websites for “fun” and “friendly” people wanting to “make good money” in sales positions.

The workers then allegedly performed door-to-door sales duties for nine hours a day, over periods ranging from one to three weeks, on behalf of Australian Sales and Promotions’ client, Energy Australia.

It is alleged that Australian Sales and Promotions classified the workers as contractors and paid them commissions determined at the company’s discretion.

It is alleged that workers variously performed between 31 and 195 hours of work but received no wages, save for a \$20 payment to one worker and a \$30 payment to another.

The Fair Work Ombudsman alleges that under workplace laws, the workers should have been classified as casual employees of Australian Sales and Promotions for reasons including the level of direction and control the company had over their work duties.

It is alleged the workers were entitled to have been paid more than \$19 an hour for the work they performed. The Brisbane worker was allegedly underpaid the largest amount of \$4107.

Fair Work inspectors discovered alleged underpayments when they investigated complaints lodged by the workers. The alleged underpayments were rectified after the Fair Work Ombudsman commenced its investigation.

Fair Work Ombudsman Nicholas Wilson says the decision to prosecute was made because of the seriousness of the alleged conduct and the involvement of vulnerable workers.

It is alleged that Australian Sales and Promotions committed several breaches of workplace laws. The company faces maximum penalties of \$33,000 per breach. A directions hearing is listed for September 4 in the Federal Magistrates Court, Melbourne.

Employers or employees seeking assistance should contact the Fair Work Infoline on 13 13 94 or visit www.fairwork.gov.au A free interpreter service is available on 13 14 50.

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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

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