

## Melbourne residential care service fined for underpaying employee

2 July 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 operators of a residential care service in Melbourne have been fined a total of \$15,180 for underpaying a personal care worker. Perfume Health Care Pty Ltd, which operates the Coorondo Home residential care service at Ashwood, has been fined \$12,650 in the Federal Magistrates Court in Melbourne.

The company's sole director and part-owner Peng Fei Lin, of Surrey Hills, who manages Coorondo Home, has been fined a further \$2530.

The fines are the result of an investigation and prosecution by the Fair Work Ombudsman.

Federal Magistrate Daniel O'Dwyer imposed the penalties after Lin admitted he was involved in Perfume Health Care underpaying a personal care worker at Coorondo Home \$51,706 between March, 2007 and February, 2011.

Perfume Health Care back-paid the outstanding entitlements last year after the employee complained to the Fair Work Ombudsman.

Federal Magistrate O'Dwyer said Perfume Health Care "manifestly failed to undertake the task imposed upon every employer to ensure that he complies with employment laws, and provides the minimum level of wage, benefits and conditions dictated by relevant industrial awards".

"There is no getting away from this overarching responsibility which demands priority when engaging staff," Federal Magistrate O'Dwyer said.

The part-time employee, a woman aged in her 40s, worked from 6.30pm to 9am two or three times a week.

She was initially paid \$50 per shift, later increasing to \$60 per shift – but should have been getting more than \$140.

She was underpaid her minimum hourly rate of pay, penalty rates for weekend, public holiday and shift work, a sleepover allowance and leave entitlements.

Perfume Health Care and Lin also committed record-keeping and pay slip breaches.

Federal Magistrate O'Dwyer noted that another employee of Perfume Health Care had lodged underpayment complaints in 2005 and 2007, which were resolved by way of voluntary back-payments.

Fair Work Ombudsman Nicholas Wilson says the Court's decision re-enforces the message that underpaying employees is a serious matter.

"Successful prosecutions such as this also benefit employers who are complying with workplace laws because it helps them to compete on a level playing field," he said.

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