

## Court action over alleged \$149,000 underpayment of SA trolley collectors

3 June 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 has launched a prosecution against three individuals and a national supermarket chain, alleging six trolley collectors in South Australia were underpaid almost \$150,000.

The four respondents to the prosecution are:

- Adelaide man Ayam Rahmah Al Basry, a sole trader;
- Sydney man Nidal Albarouki, who was the owner of trolley collecting companies Starlink International Group Pty Ltd and Starlink Operations Group Pty Ltd;
- Sydney man Louis 'Clency' Ferriere, who was the general manager of both Starlink companies; and
- National company Coles Supermarkets Australia Pty Ltd.

The Fair Work Ombudsman alleges each of the respondents is culpable for six trolley collectors working in Adelaide's northern suburbs being underpaid a total of \$149,530.

The trolley collectors - Indian males aged between 27 and 33 who spoke limited English - were allegedly underpaid between January, 2010 and July, 2011.

They variously worked at the Elizabeth Shopping Centre, the Craigmores Shopping Centre, the Munno Para Shopping Centre and the Northern Market Shopping Centre at Gawler.

Coles allegedly contracted Starlink International Group to provide trolley collecting services at the shopping centres.

It is alleged that Starlink Operations Group, through Mr Albarouki and Mr Ferriere, sub-contracted the trolley collecting services to Mr Al Basry.

It is alleged Mr Al Basry paid the six trolley collectors approximately \$8 an hour for all hours worked.

The Fair Work Ombudsman alleges they should have been paid more than \$15 an hour for normal hours of work and up to \$34 an hour for some overtime, weekend and public holiday work.

The employees were allegedly also underpaid superannuation and annual leave entitlements.

It is alleged that three of the trolley collectors regularly worked seven days a week and performed more than 70 hours of work per week.

The six were allegedly underpaid amounts ranging from \$1052 to \$70,194.

The Fair Work Ombudsman alleges that Mr Albarouki and Mr Ferriere knew that the sub-contracting prices the Starlink companies paid to Mr Al Basry would result in - or would be likely to result in - Mr Al Basry undercutting minimum wage rates.

Similarly, Coles allegedly knew that under the contracting prices it paid to the Starlink companies, it was not feasible to provide the required trolley collecting services without undercutting minimum wage rates.

A Statement of Claim lodged in the Federal Court in Adelaide also alleges that Coles had reason to believe - or at least suspect - in 2010 that Mr Al Basry was underpaying trolley collectors employed at Elizabeth, Munno Para, Craigmores and Gawler.

Court documents allege that Coles was wilfully blind to the underpayments and did not take action to prevent them.

Coles allegedly did not terminate its contract with the Starlink companies until July, 2011.

It is the second time the Fair Work Ombudsman has taken legal action against Mr Albarouki, Mr Ferriere and Coles in relation to alleged underpayment of trolley collectors in South Australia.

Earlier this year, the Fair Work Ombudsman launched a prosecution alleging they were involved in underpaying four trolley collectors at the West Lakes shopping centre in Adelaide more than \$143,000. The case is still before the Court (see: [Court action over alleged \\$143,000 underpayment of Adelaide trolley collectors \(www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2012-media-releases/february-2012/20120226-al-hilfi-prosecution\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2012-media-releases/february-2012/20120226-al-hilfi-prosecution) ).

Fair Work Ombudsman Nicholas Wilson says the large amount allegedly involved and the vulnerability of the workers were decisive factors in the decision to prosecute.

The Fair Work Ombudsman is seeking penalties against Mr Al Basry, Mr Albarouki, Mr Ferriere and Coles in relation to multiple alleged underpayment-related breaches of the Fair Work Act.

The individuals face maximum penalties of \$6600 per breach and Coles faces maximum penalties of \$33,000 per breach.

The Fair Work Ombudsman is also seeking a Court Order for Mr Al Basry to rectify the alleged underpayments and additional penalties against Mr Al Basry for allegedly failing to issue pay slips and keep proper employment records.

The Starlink companies were placed into liquidation last year, which prevents the Fair Work Ombudsman from prosecuting them.

Employers or employees seeking assistance should contact the Fair Work Infoline on 13 13 94 or visit [www.fairwork.gov.au](http://www.fairwork.gov.au).

A free interpreter service is available on 13 14 50 and information on the website is translated into 27 different languages.

The Fair Work Ombudsman has also recently launched 14 Online videos to assist foreign workers understand their workplace rights and entitlements.

The short videos - available at [www.youtube.com/fairworkgovau](http://www.youtube.com/fairworkgovau) (http://www.youtube.com/user/FairWorkGovAu) - are presented by native speakers of Mandarin, Cantonese, Indonesian, Serbian, Arabic, Dari, Farsi, Khmer, Korean, Spanish, Vietnamese, Thai and Turkish. There is also an English version.

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

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