

Court action over alleged sham contracting

13 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 the operator of a Brisbane beauty and photography business, alleging he was involved in sham contracting activity and the underpayment of more than \$8000 to seven employees.

Facing court is Bryan Charles Bedington, the majority owner and sole director of Woolloongabba-based company New Image Beauty Salons Pty Ltd, which was engaged in portrait photography and associated make-over services.

The company went into liquidation last year, which prevents the Fair Work Ombudsman from taking legal action against it.

Mr Bedington was allegedly involved in breaching the sham contracting provisions of workplace laws by knowingly misclassifying seven employees as independent contractors.

It is alleged that the employees - five photographers and two make-up artists, including three aged 19, 20 and 21 - were not paid a total of \$8288 in annual leave entitlements in 2011 as a result of the sham contracting.

The alleged breaches were discovered last year during the Fair Work Ombudsman's national auditing campaign focusing on sham contracting.

Mr Bedington allegedly knew the correct classification for the workers was as employees because the Fair Work Ombudsman formally cautioned him in 2010 about misclassifying employees as contractors.

It is alleged the workers should have been classified as employees for reasons including the high degree of control their employer had over their work and that they were not able to work for any other business.

Fair Work Ombudsman Nicholas Wilson says sham contracting is a serious matter because it can lead to workers being denied their rightful workplace rights and entitlements.

The Fair Work Ombudsman alleges Mr Bedington was involved in committing three breaches of workplace laws. He faces maximum penalties of \$6600 per breach.

The Fair Work Ombudsman is also seeking a Court Order that any fine imposed on Mr Bedington go towards rectifying the alleged underpayments of the workers. The case is being heard in the Federal Magistrates Court in Brisbane.

It is the Fair Work Ombudsman's second prosecution case against Mr Bedington. Earlier this year, the Fair Work Ombudsman launched a prosecution alleging Mr Bedington was involved in underpaying a worker more than \$19,000. A directions hearing is listed for July 12 - see: [Court action over alleged \\$19,000 underpayment of Brisbane employee. \(www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2012-media-releases/april-2012/20120418-new-image-photographics-prosecution\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2012-media-releases/april-2012/20120418-new-image-photographics-prosecution)

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