

Court imposes \$108,000 penalty for underpayment of Perth employees

7 March 2012

The operators of two Perth recycling businesses have been fined a total of \$108,240 after a court found they had underpaid seven staff almost \$10,000.

Yokine man Brendan Raymond Leppard has been penalised \$32,340 and Proplas Industries Pty Ltd, of which Leppard is the major shareholder, a further \$75,900.

The penalties, imposed by the Federal Magistrates Court in Perth, are the result of litigation initiated by the Fair Work Ombudsman.

Through Proplas Industries and a now-deregistered company he owned, Leppard has operated plastics-recycling businesses trading under the names Peak Recycling and Excel Plastics.

Federal Magistrate Toni Lucev found Leppard was centrally involved in deliberately breaching workplace laws by failing to pay wages to seven employees totaling \$9491.

One of the employees was underpaid \$5799.

The employees, including three from non-English speaking backgrounds, generally performed labouring work for between two days and several weeks at recycling depots in Perth during 2009 and 2010.

Five of the employees were not paid any wages for the work they performed.

Leppard and Proplas Industries also breached workplace laws by failing to comply with requests from Fair Work inspectors to supply employment records.

Federal Magistrate Lucev said Leppard had previously been fined in 2003 for failing to provide employment records to inspectors, and there was a need to impose a penalty that deterred him from committing further breaches.

"The necessity for specific deterrence in the case of Mr Leppard, who simply appears to have no appreciation of the nature of his conduct or the requirement to comply with Commonwealth workplace relations laws, is high," Federal Magistrate Lucev said.

Federal Magistrate Lucev said Leppard and Proplas Industries had still not complied with Court Orders made in July last year to rectify the underpayments of the workers and supply employment records to the Fair Work Ombudsman.

"Insofar as there is a lack of contrition and corrective action and very little co-operation with the Fair Work Ombudsman, the conduct of Proplas Industries and Mr Leppard is amongst the worst that the Court has seen in recent years," Federal Magistrate Lucev said.

"The failure to produce documents is, possibly, more serious than the failure to pay entitlements, because the failure to produce documents prevents the Fair Work Ombudsman from carrying out an investigation to determine whether or not an employee has been paid entitlements."

Under workplace laws, employers must keep employment records for employees and former employees and provide them to inspectors upon request.

Federal Magistrate Lucev said Leppard's business "seemingly continues to operate" and that "the risk of re-offending by Mr Leppard at some stage appears considerable".

Federal Magistrate Lucev has ordered Proplas Industries and Leppard to pay a total of \$3559 in legal costs to the Fair Work Ombudsman.

Fair Work Ombudsman Nicholas Wilson says the Court's judgment illustrates clearly to employers that deliberately underpaying workers is a serious matter that will not be tolerated.

"Cases involving underpayment of vulnerable workers are treated particularly seriously," Mr Wilson said.

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 and information on the website is translated into almost 30 languages.

Follow the Fair Work Ombudsman on [Twitter @fairwork_gov_au](https://twitter.com/fairwork_gov_au)  (http://twitter.com/fairwork_gov_au) or find us on [Facebook](https://www.facebook.com/fairwork.gov.au)  (<https://www.facebook.com/fairwork.gov.au>) .

Media inquiries:

Ryan Pedler, Assistant Director, Media & Stakeholder Relations

0411 430 902

ryan.pedler@fwo.gov.au

Page reference No: 4020

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.