

Gold Coast companies face Court over alleged sham contracting, underpayments

26 August 2013

The Fair Work Ombudsman has launched legal action against the operators of two Gold Coast travel businesses, alleging they were involved in sham contracting activity and underpaying six workers more than \$25,000.

Facing Court are the companies Global Work & Travel Co. Pty Ltd and Global Work & Travel Co. (Australia) Pty Ltd, which operate a business selling working holiday programs and a travel agency, respectively, at Main Beach.

Also facing Court are the companies' owner-managers: married couple Caryl Deborah Himmelmann and Pierre Michael Himmelmann and their son Jurgen Andreas Himmelmann.

It is alleged that the Himmelmanns were involved in their companies breaching sham contracting laws by misclassifying six workers at the Gold Coast businesses as independent contractors when their correct classification was as employees.

Three of the workers were travel agents, two worked as sales consultants and one performed program coordinator and recruitment officer duties.

It is alleged that under workplace laws the workers should have been classified as full-time employees for reasons including that the workers were not conducting their own businesses and the companies, through the Himmelmanns, exercised control over the way they performed their duties.

It is alleged the misclassification led to the workers being paid retainers of \$250 to \$750 per week, plus commissions and bonuses based on sales - but that they should have been paid Award employee entitlements including minimum wages, leave pay, overtime and penalty rates.

The situation allegedly led to the workers being underpaid a total of \$25,250 for various periods of work performed between January, 2011 and October, 2012.

The Fair Work Ombudsman discovered the alleged underpayments, as well as record-keeping breaches, when it investigated complaints lodged by the workers. The alleged underpayments were rectified in June this year.

Fair Work Ombudsman, Natalie James, said the seriousness of the alleged breaches and the amounts involved were significant factors in the decision to commence legal action.

It is alleged that the Himmelmanns were involved in their companies committing multiple breaches of workplace laws. The individuals each face penalties of up to \$6,600 per breach and the company faces penalties of up to \$33,000 per breach.

A directions hearing is listed in the Federal Circuit Court in Brisbane on 2 February, 2014.

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

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Contact us

Fair Work Online: www.fairwork.gov.au

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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

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