

## Real estate industry urged to show leadership after latest penalty for staff underpayments

11 March 2014

The Fair Work Ombudsman is calling for leadership from the real estate industry in Queensland to help improve compliance with workplace laws.

Fair Work Ombudsman Natalie James says education within the industry is not a job for her Agency alone, and is urging employer organisations and large real estate brands to help drive behavioural change.

Ms James says most real estate companies would want the poor practices among their competitors exposed and remedied ... "so we need to harness that attitude to bring about improvement and a level playing field for all".

In 2011, the Fair Work Ombudsman audited 156 Queensland real estate industry employers to check if they were lodging staff pay agreements - and less than half were doing so, prompting a follow-up campaign last year.

Of 279 employers scrutinised in a second round of auditing, 230 or 82 per cent, had complied with the requirement to lodge pay agreements for staff with the Queensland Property Industry Registry.

While encouraged by the turn-around, Ms James says there are still some disturbing findings by Fair Work inspectors looking into complaints against the real estate industry in Queensland, such as non-payment of minimum entitlements to commission-based staff.

And she referred to the findings yesterday of the Federal Circuit Court for "an apparent need for the general deterrence of the common disregard of industrial instruments in the real estate industry".

The former operators of a Gold Coast real estate company were yesterday fined a total of \$56,000 for underpaying three salespeople when they sought to boost profitability at the employees' expense.

Adrian Keith Parsons - who operated Total Project Marketing before it went into liquidation last year - and his wife Karen Nicole Parsons, the company's director, have each been fined \$28,000.

The penalties follow legal action by the Fair Work Ombudsman.

The company underpaid three real estate salespeople a total of \$41,472 between October, 2009 and February, 2011.

The majority of the underpayments were the result of the employees being significantly underpaid the sales commissions they were entitled to. They were also underpaid their minimum weekly wages and annual leave entitlements.

The employees were underpaid amounts of \$32,951, \$4800 and \$3720.

Judge Michael Jarrett found that the underpayments took place in circumstances where Mr and Mrs Parsons were seeking to increase the profitability of the real estate company "at the expense of its employees".

The Parsons had not co-operated with Fair Work inspectors investigating complaints lodged by the employees, the Court found.

Judge Jarrett also said that Mr and Mrs Parsons' admission of wrongdoing and rectification of the underpayments many months after the Fair Work Ombudsman launched legal action were not a "suitable credible expression of regret".

He said there was need for a penalty to deter the couple from similar future conduct and also for "an apparent need for the general deterrence of the common disregard of industrial instruments in the real estate industry".

In June last year - also following legal action by the Fair Work Ombudsman - the operators of Queensland real estate agency Lovers of Property Pty Ltd were fined a total of \$27,720 by the Federal Circuit Court in Brisbane for paying a salesman just \$100 for five months work - underpaying him by \$12,440.

See full media release at: [Qld real estate agency fined for underpayment.](#)

And in February this year, the Fair Work Ombudsman announced it had entered into an Enforceable Undertaking with Queensland-based real estate agency Centenary Suburbs Sales and Management Pty Ltd after it underpaid a sales consultant more than \$16,000 over seven months.

See full media release at: [Company acts to end question mark over employment classifications \(www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2014-media-releases/february-2014/centenary-eu\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2014-media-releases/february-2014/centenary-eu) .

Ms James says that as a regulator, it is important for her Agency to strike the right balance between education and compliance.

"We have been meeting regularly with representatives of real estate employer groups to discuss Award compliance issues, as we want to ensure that small business people have every opportunity to meet their workplace obligations and have access to reliable, credible resources," she said.

The Fair Work Ombudsman has recently established a dedicated Small Business Strategy Team that has been tasked with responding to the needs of small businesses.

"We're serious about getting input from those who are part of the small business community, and tailoring our services and resources to suit their needs, so consultation is a really important part of our work," Ms James said.

The Fair Work Ombudsman also works in partnership with franchisors, including real estate agencies, through its National Franchise Program, providing assistance to franchisors that are committed to fair workplaces within their brand.

The Fair Work Ombudsman has a dedicated webpage for small business at [www.fairwork.gov.au/smallbusiness](http://www.fairwork.gov.au/smallbusiness) ([www.fairwork.gov.au/find-help-for/small-business/default](http://www.fairwork.gov.au/find-help-for/small-business/default))

Small business employers calling the Fair Work Infoline can also opt to be put through to the Small Business Helpline to receive priority service.

Employers and employees seeking assistance can visit [www.fairwork.gov.au](http://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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