

Businesswoman back in court over fresh allegations of exploitation of overseas workers

12 October 2014

A businesswoman fined almost \$60,000 last year for deliberately exploiting overseas backpackers – but who has not paid the penalty – will face court for a second time over fresh allegations that she continues to exploit vulnerable overseas workers in Perth.

Catherine Paino-Povey was penalised in September following litigation by the Fair Work Ombudsman for being a key figure in the underpayment of six Perth cleaners, including five overseas backpackers, three of whom spoke little English.

The overseas workers were in Australia on 417 working holiday visas from Taiwan, Hong Kong, New Zealand and Ireland.

The Fair Work Ombudsman today announced it had initiated further legal action against Ms Paino-Povey, alleging she has continued to exploit vulnerable employees in Perth – this time three Chinese women, also in Australia on 417 working holiday visas.

Ms Paino-Povey is the owner and sole director of the Commercial and Residential Cleaning Group Pty Ltd.

Also facing legal proceedings in the Federal Circuit Court is her husband, Mark Povey, who is allegedly centrally involved in running the company.

Court documents lodged by the Fair Work Ombudsman allege the couple were responsible for the company deliberately underpaying three employees a total of \$13,605 between June, 2012 and April, 2013.

Last September, Ms Paino-Povey was fined \$57,310 for her role in the deliberate underpayment of six employees of a company owned by her husband and trading as Housekeeping Pty Ltd, which she managed at the time.

Judge Toni Lucev also penalised the company \$286,550, noting it and Ms Paino-Povey had been dishonest in their representations to the Fair Work Ombudsman and stifled the Agency's efforts to conduct a proper investigation.

The combined penalty of \$343,860 is a record for a Fair Work Ombudsman litigation.

Judge Lucev also ordered the company to back-pay the employees a total of \$22,510 in outstanding wages and entitlements (see [Record penalties for deliberate underpayment of foreign cleaners in Perth \(http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2013-media-releases/september-2013/20130907-housekeeping-penalty\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2013-media-releases/september-2013/20130907-housekeeping-penalty) media release).

Housekeeping Pty Ltd has since been deregistered and the penalties and back-payment order remain unpaid.

The Fair Work Ombudsman alleges the company's assets were transferred to the Commercial and Residential Cleaning Group Pty Ltd.

Ms Paino-Povey and Mr Povey have allegedly purported that the Housekeeping company is also the employer of the three employees in the current matter.

However, the Fair Work Ombudsman alleges the purported arrangement is a sham and that Commercial and Residential Cleaning Group is the true employer of the employees.

It is alleged that two of the employees received no payment at all for between two and four week's work and the third was paid nothing for one week's work.

The employees allegedly were also variously underpaid their minimum hourly rates and overtime rates and not paid for travel time between residences, annual and personal leave entitlements, superannuation or wages-in-lieu of notice.

One employee allegedly had \$400 unlawfully deducted from her wages for "car damage insurance excess".

Laws relating to rostering, frequency of pay, record-keeping, pay-slip, meal breaks and compliance with a Notice to Produce documents were allegedly also breached.

Fair Work Ombudsman Natalie James says repeated and deliberate exploitation of vulnerable overseas workers in Australia is completely unacceptable.

"The alleged conduct involved in this matter is extremely serious," she said.

"The Fair Work Ombudsman will not tolerate employers trying to use legal and corporate trickery to avoid paying employee

entitlements.

“We are committed to doing everything within our power to ensure the workers involved in this case receive their lawful entitlements and that the respondents are held liable for what we allege are serious breaches of workplace laws.”

Ms Paino-Povey and Mr Povey face penalties of up to \$10,200 per contravention and Commercial and Residential Cleaning Group up to \$51,000 per contravention. Multiple contraventions are alleged.

The Fair Work Ombudsman is also seeking a Court Order for the company to rectify the alleged underpayments in full.

A directions hearing is scheduled in the Federal Circuit Court in Perth for December 1.

Employers and employees seeking assistance should visit www.fairwork.gov.au or call the Fair Work Infoline on 13 13 94. An interpreter service is available on 13 14 50.

The Fair Work Ombudsman has announced a review of the wages and conditions of overseas workers in Australia on the 417 Working Holiday Visa (see Fair Work Ombudsman to review entitlements of overseas visa-holders on working holidays (<http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2014-media-releases/august-2014/20140804-working-holiday-entitlements-review>) media release).

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Media inquiries:

Ryan Pedler, Assistant Media Director

Mobile: 0411 430 902

ryan.pedler@fwo.gov.au (<mailto:ryan.pedler@fwo.gov.au>)

Page reference No: 5076

Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

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