

Interim freeze order secured against company which allegedly underpaid workers \$300,000

2 September 2014

The Fair Work Ombudsman has taken the rare step of securing an interim Court Order freezing company assets after commencing legal proceedings against a cleaning company for allegedly underpaying employees more than \$300,000.

The Fair Work Ombudsman commenced proceedings in the Federal Court in July against Sydney-based cleaning company Grouped Property Services Pty Ltd.

Also facing Court are Rosario Pucci, the company's former owner and sole director, and his brother Enrico Pucci, the company's current owner and sole director.

The Fair Work Ombudsman is seeking penalties against all respondents for various alleged contraventions, including \$308,000 in underpayments of 51 workers and breaches of adverse action and sham contracting laws.

The Agency is also seeking Court Orders requiring Grouped Property Services to rectify the alleged underpayments in full.

After commencing proceedings, the Fair Work Ombudsman sought and secured interim Federal Court Orders restricting the operators of Grouped Property Services from dispersing the company's assets up to the value of the alleged underpayments.

Fair Work Ombudsman Natalie James says the Orders aimed to prevent the company from being stripped of assets or placed into liquidation, which would frustrate any back-payment orders against the company.

"We have received more than 200 complaints against Grouped Property Services and associated companies over a number of years and we are concerned that the company's alleged business practices have led to employees being denied their lawful minimum entitlements," Ms James said.

"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."

The 51 allegedly underpaid workers include migrant workers from non-English speaking backgrounds and some international students.

Most were engaged as cleaners, but some worked in clerical and other roles.

The Fair Work Ombudsman alleges Grouped Property Services, Rosario Pucci and Enrico Pucci purported to outsource the employment of the workers to labour-hire company National Contractors Pty Ltd.

It is alleged that the labour hire arrangement was not genuine.

National Contractors – which allegedly did not own any real property, generated little or no income or operated at a loss and was registered at Grouped Property Services' business address – was allegedly actually controlled by Grouped Property Services.

It is alleged the true employer of the workers was Grouped Property Services for reasons including the direction and control the company had over the workers' duties.

It is alleged that three other purported labour hire companies which had formerly also been registered at the Grouped Property Services business address had previously gone into liquidation, leaving little or nothing in the way of assets that could be used to pay former employees.

In one of those cases, the Fair Work Ombudsman secured \$4400 in Court-issued fines against Rosario Pucci for his involvement in underpaying three employees – but Mr Pucci's company Wash and Go Pty Ltd was placed into liquidation, preventing the Fair Work Ombudsman from securing penalties against it (see: <http://www.fairwork.gov.au/About-us/news-and-media-releases/2011-media-releases/December-2011/20111219-pucci-penalty> (www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2011-media-releases/december-2011/20111219-pucci-penalty)).

Ms James says the Agency has taken the additional step of seeking a freezing Order because of this alleged pattern of behaviour.

Ms James says the involvement of workers from non-English speaking backgrounds was also an aggravating feature of the matter.

"These workers can be vulnerable if they are not fully aware of their rights or are reluctant to complain, so we treat such cases very

seriously," she said.

Grouped Property Services faces maximum penalties of up to \$51,000 per breach, while Rosario and Enrico Pucci each face maximum penalties of up to \$10,200 per breach.

A directions hearing is listed for the matter in the Federal Court in Sydney on September 12.

Employers and employees seeking assistance can 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.

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

Media inquiries:

Tom McPherson, Media Adviser

Mobile: 0439 835 855

tom.mcpherson@fwo.gov.au (<mailto:tom.mcpherson@fwo.gov.au>)

Page reference No: 5046

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.