

Chinese, Filipino workers short-changed \$873,000 and housed in overcrowded accommodation

20 April 2015

A Taiwanese company which brought dozens of Chinese and Filipino workers into Australia to work in regional NSW underpaid them by more than \$873,000 and housed them in overcrowded accommodation, a Fair Work Ombudsman investigation has concluded.

Chia Tung Development Corp Ltd employed 13 Chinese and 30 Filipino nationals to install animal feed mills across sites at Narrabri, Manildra and Bomaderry.

Acting Fair Work Ombudsman Michael Campbell says the workers, aged between 20 and 50, were employed as welders, metal fabricators and electricians and generally worked between nine and 11 hours a day, six days a week.

Mr Campbell says Chia Tung employed the Filipino men on 457 skilled worker visas and the Chinese - who spoke no English - on 400 temporary short-stay work visas.

"The Fair Work Ombudsman found that the Chinese employees were promised about \$10 an hour, but were paid nothing at all for three months' work," he said.

"All they got was a \$15 a day "food allowance".

"Chia Tung promised the Filipino workers about \$27 an hour, but subsequently unlawfully deducted thousands of dollars in 'fees' from their wages - resulting in them getting just over \$9 an hour."

Mr Campbell says almost 30 workers lived in a five-bedroom house at Nowra, with nine people sleeping in the living room. They shared one toilet.

"At Narrabri, six workers lived in the worksite office and another four lived in an onsite demountable. Again, they had access to only one toilet and kitchen," he said.

Chia Tung also unlawfully deducted fees for visa processing, flights, insurance, food and transport from the wages of the Filipino workers.

Mr Campbell says 13 of the workers were underpaid by more than \$30,000, a further 10 were underpaid amounts of more than \$20,000 and 12 were underpaid more than \$10,000.

The underpayments occurred between September 2014 and February 2015.

Chia Tung also breached workplace laws when it terminated the employment of eight employees at the Narrabri worksite without providing the appropriate notice.

Mr Campbell says the Fair Work Ombudsman launched an investigation in January this year after several of the workers requested assistance.

Chia Tung, which has not previously come to the Fair Work Ombudsman's attention, co-operated fully with the investigation.

The Fair Work Ombudsman opted to seek an Enforceable Undertaking (EU) from Chia Tung in order to achieve outcomes that would not have been possible through litigation.

As a result, Mr Campbell revealed that Chia Tung had back-paid the Filipino workers in full and agreed to back-pay the Chinese workers in full by April 28.

Under the terms of the Enforceable Undertaking, Chia Tung will also:

- Donate \$10,000 to the Philippine-Australian Community Services support organisation,
- Make written apologies to the underpaid workers,
- Implement a workplace relations training program for its managers,
- Report to the Fair Work Ombudsman on systems and processes implemented to ensure future workplace compliance,
- Commission an external professional to conduct two audits of its pay practices in the next 18 months and provide reports to the Fair Work Ombudsman,

- Register with the Fair Work Ombudsman's My Account online tool,
- Ensure its subsidiary companies and transferees comply with their workplace obligations,
- Place newspaper notices and workplace notices at the three work sites outlining its contraventions, and
- Establish a hotline in Australia to deal with workplace inquiries from employees.

Chia Tung employs more than 4000 staff globally and has associated entities registered within Australia.

Mr Campbell says the underpaid Chinese workers have now returned home, while 20 of the Filipino workers are still employed by Chia Tung in Australia.

He says underpayment and shabby treatment of overseas workers in Australia is completely unacceptable.

"Overseas workers are often vulnerable because of a lack of awareness of their workplace rights and language barriers, so we place a high priority on ensuring their workplace rights are protected," Mr Campbell said.

"Successful compliance outcomes such as this also help to ensure a level playing field for employers who are doing the right thing and complying with their obligations."

Mr Campbell says that the EU with Chia Tung secured large back-payments for underpaid workers, as well as other measures focused on ensuring ongoing compliance, that would not have been possible through Court action, which could have taken a year or more.

Enforceable Undertakings were introduced by legislation in 2009 and the Fair Work Ombudsman has been using them to achieve strong outcomes against companies that breach workplace laws, without the need for civil court proceedings.

"We use Enforceable Undertakings where we have formed a view that a breach of the law has occurred, but where the employer has acknowledged this and accepted responsibility and agreed to co-operate and fix the problem," Mr Campbell said.

He revealed that the Fair Work Ombudsman is now receiving more requests for assistance from visa holders working in Australia than ever before.

"One in 10 of our requests for assistance are now coming from visa-holders. That's significant and that is a trend that is concerning us greatly," Mr Campbell said.

Last financial year, the Fair Work Ombudsman recovered \$1.103 million in underpaid wages and entitlements for almost 700 workers who identified as visa-holders.

In the first nine months of this financial year, the Agency has already recouped \$1.281 million for 345 underpaid visa-holders.

The Fair Work Ombudsman established an Overseas Workers' Team in 2012 in recognition that overseas workers can be vulnerable to exploitation or require specialist assistance.

Information to assist people from culturally and linguistically diverse backgrounds has been translated into 27 languages and can be accessed at www.fairwork.gov.au.

The Fair Work Ombudsman can assist employers and employees alike with accurate, reliable information that is easy to access, understand and apply.

Those seeking assistance can also call the Fair Work Infoline on 13 13 94.

Overseas workers can call 13 14 50 if they need an interpreter.

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) .

Sign up to receive the Fair Work Ombudsman's media releases direct to your email inbox at www.fairwork.gov.au/mediareleases (www.fairwork.gov.au/mediareleases) .

Download:

- Chia Tung Development Corp Ltd Enforceable Undertaking (DOCX 129.5KB) (www.fairwork.gov.au/ArticleDocuments/837/enforceable-undertaking-chia-tung-development-corp-ltd.docx.aspx) (PDF 2.7MB) (www.fairwork.gov.au/ArticleDocuments/837/enforceable-undertaking-chia-tung-development-corp-ltd.pdf.aspx)

Media inquiries:

Nicci de Ryk, Senior Media Adviser

Mobile: 0466 522 004
nicci.deryk@fwo.gov.au (<mailto:nicci.deryk@fwo.gov.au>)

Tom McPherson, Media Adviser
Mobile: 0439 835 855
tom.mcpherson@fwo.gov.au (<mailto:tom.mcpherson@fwo.gov.au>)

Page reference No: 5254

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.