

Court imposes \$190,000 penalties over exploitation of overseas trolley collectors

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Trolley collection providers who exploited a dozen overseas workers pushing trolleys at a suburban shopping centre have been fined more than \$190,000.

The Federal Circuit Court in Sydney imposed the penalties in response to legal action by the Fair Work Ombudsman.

The 12 trolley collectors – 11 from South Korea and one from Iran – were vulnerable employees who spoke little English.

All males aged between 19 and 32 were in Australia on the 417 working holiday visa.

They were not paid anything at all for 11 days work at the Costco shopping centre at Lidcombe, in western Sydney, in 2011.

Collectively, they should have been paid more than \$27,000.

The trolley pushers worked up to 105 hours over the 11-day period, including weekend, evening and overtime shifts.

They were short-changed amounts ranging from \$1829 to \$2830.

Judge Michael Lloyd-Jones took the rare step of issuing the maximum penalty against one trolley collection provider with a history of exploiting vulnerable workers.

Businessman Nick Iksidis was penalised \$39,600 for his role.

Also fined were:

- Trolley collecting and cleaning company Jay Group Services Pty Ltd - \$109,725,
- Jay Group general-manager Jatinder Singh - \$23,760, and
- Jay Group employee Tejinder Singh Sandhu - \$17,160.

Jay Group was also ordered to reimburse all workers their outstanding entitlements. Only one has been back-paid to date.

It is the third time Nick Iksidis and/or his company Xidis Pty Ltd, which traded as Effective Supermarket Services, have been penalised for exploiting trolley collectors.

Each was the result of litigation by the Fair Work Ombudsman and its predecessor agencies.

In 2007, Xidis Pty Ltd and Iksidis were fined a total of \$25,000 for failing to pay three Melbourne trolley collectors a total of \$3523 in wages and entitlements.

And again in 2008, Xidis Pty Ltd was fined \$120,000 for underpaying 42 trolley collectors in Albury, NSW, a total of \$100,000.

Iksidis' latest penalty comes after Effective Supermarket Services entered into a contract with national supermarket operator Costco Wholesale Pty Ltd in 2011.

Costco paid Effective Supermarket Services a contract fee of \$34,633 to provide trolley collecting services at its Lidcombe shopping centre from July 21, 2011 - until it terminated the contract on July 31.

Effective Supermarket Services then sub-contracted Jay Group Services to provide trolley collection services for a fee of \$14,800.

Jay Group ultimately hired the 12 overseas workers as trolley collectors, promising them cash payments of \$10 to \$12 an hour.

After receiving complaints from the employees, the Fair Work Ombudsman investigated and subsequently commenced legal action because of the blatant nature of the underpayments and the refusal to rectify them.

Iksidis later admitted that he was involved in underpaying the trolley collectors and had breached workplace laws.

Judge Lloyd-Jones found that Iksidis' history of non-compliance warranted a substantial penalty.

"The person who should have been the best informed and appropriately the most cautious in respect of the appropriate remuneration of employees was Mr Iksidis," Judge Lloyd-Jones said.

“Consequently, I believe that the maximum penalty for each contravention should be imposed.”

Judge Lloyd-Jones said the employees were “vulnerable to exploitation” and there had been “a total failure to meet minimum standards of the most fundamental kind being a complete non-payment of wages and entitlements”.

“Further, there is a need for deterrence in the trolley collecting industry which is generally a low-skilled industry that often uses sub-contracting arrangements to avoid obligations under workplace law,” Judge Lloyd-Jones said.

In the past six years, the Fair Work Ombudsman has recovered over \$433,000 in underpaid wages and entitlements for more than 500 trolley collectors throughout Australia.

In recent months, the Fair Work Ombudsman has stepped up its efforts to protect trolley collectors, warning the supermarket giants they can no longer turn a blind eye to the persistent problem of trolley collectors being exploited by sub-contractors.

As part of an Enforceable Undertaking entered into in October 2014, Coles became the first major supermarket chain to publicly declare it has an “ethical and moral responsibility” to join with the Fair Work Ombudsman to stamp out exploitation of trolley collectors.

Fair Work Ombudsman Executive Director Tom O’Shea says companies are at risk of breaching workplace law if they outsource work to low-cost providers who failed to pay workers their minimum lawful entitlements.

“Companies need to ensure their procurement decisions do not undermine compliance with workplace laws,” he said.

“Companies should take efforts to ensure low-cost contracts are the result of efficient business practices, rather than the underpayment of employee entitlements.

“In cases where we believe breaches of workplace laws have occurred, we are committed to scrutinising the commercial processes behind those breaches and holding any involved parties to account.”

Mr O’Shea says the Fair Work Ombudsman places a high priority on protecting the workplace rights of overseas workers, who can be vulnerable if they are not fully aware of their rights or are reluctant to complain.

The Fair Work Ombudsman last year announced it would conduct a national review of the wages and conditions of overseas workers in Australia on the 417 working holiday visa.

Employers and employees seeking assistance can visit www.fairwork.gov.au or contact the Fair Work Infoline on 13 13 94. Overseas workers can call 13 14 50 if they need interpreter services.

Information to assist people from culturally and linguistically diverse backgrounds has been translated into 27 languages.

The Fair Work Ombudsman has fact sheets tailored to overseas workers and international students on its website.

The Agency has also produced videos in 14 languages and posted them on YouTube to assist overseas workers understand their workplace rights in Australia.

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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

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