

National advertising company and director fined \$100,000 over underpayments

29 January 2015

A national advertising company and its director have been penalised a total of \$100,000 after failing to pay dozens of workers in Brisbane, Sydney, Melbourne and Adelaide any wages for work they performed.

OHMedia Melbourne Pty Ltd has been fined \$85,000 and company director and part-owner Wen Zhou, also of Melbourne, a further \$15,000.

The company has also been ordered to fully rectify almost \$60,000 it short-changed its employees.

The fines and back-pay order, imposed in the Federal Circuit Court in Brisbane, are the result of an investigation and legal action by the Fair Work Ombudsman.

OHMedia Melbourne underpaid 45 casual employees a total of \$59,145 in less than one month in March-April, 2011.

The employees worked at stalls outside supermarkets promoting prepaid SIM cards and top-up vouchers supplied by global telco Lycamobile, which had contracted OHMedia Melbourne to promote its products.

Most of the employees are overseas workers who were in Australia on student and working holiday visas. Nine of the employees were aged under 21.

Thirty seven of the employees were paid nothing for work they performed, with the others paid only a fraction of what they were entitled to.

More than \$48,000 of the underpayment relates to 34 employees who were based in Brisbane - including seven aged between 18 and 21 - who individually worked up to 133 hours for no wages.

The other employees were located across Melbourne (five employees), Adelaide (four) and Sydney (two).

Complaints by employees to the Fair Work Ombudsman prompted a detailed investigation, which revealed the extent of the alleged underpayments.

Judge Michael Jarrett found that OHMedia Melbourne had made no attempt to seek advice about applicable minimum pay rates and the contraventions were "at the very least reckless".

Further, Judge Jarrett said OHMedia Melbourne and Zhou had shown no genuine remorse and there was a need to impose a penalty which "serves as a warning to others".

"Employers should understand very clearly that employees, whether within a vulnerable class or otherwise, are not available for exploitation and are entitled to all of the protections offered by the Fair Work Act," he said.

Judge Jarrett also found that the failure to keep records was significant.

"The failure to keep accurate records undermines the (Fair Work Ombudsman's) ability to investigate and ensure compliance with minimum standards," he said.

Lycamobile Pty Ltd itself was fined \$59,400 in Court in 2013 for underpaying 13 staff in Brisbane and Adelaide \$28,000, including a number of overseas workers employed to promote and sell pre-paid mobile phone SIM cards and top-up vouchers.

Fair Work Ombudsman Natalie James says the Court's decision should serve as a reminder to employers that failing to pay employees their basic entitlements is a serious matter.

"Successful litigations such as this also benefit employers who are complying with workplace laws, because it helps them to compete on a level playing field," she said.

Ms James says the Fair Work Ombudsman can provide practical advice that is easy to access, understand and apply and encouraged employers to avail themselves of the Agency's free tools and resources.

Employers and employees seeking advice or assistance should visit the website at 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.

Online tools include PayCheck Plus for calculating the correct wages for employees, fact sheets, Best Practice Guides and templates for pay slips and time-and-wages records.

Underpinning the Fair Work Ombudsman's website tools and resources is its award-winning Small Business Helpline, where employers can get advice they can rely on with confidence.

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

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