

Media company faces Court over unpaid internship

12 November 2015

A Sydney-based media company is facing Court for allegedly running an unlawful unpaid internship program and underpaying two workers more than \$18,000.

The Fair Work Ombudsman has commenced legal action against AIMG BQ Pty Ltd and company director Zhao Qing Jiang.

The company operates Chinese-language websites and publications targeted at Australia's Chinese community, including Oriental BQ Weekly.

Two event co-ordinators were allegedly underpaid a total of \$18,767 between October, 2013 and June, 2014.

One of the employees was an international student from China, then aged 24, who was studying a Master of Event Management degree at the University of Technology.

AIMG BQ allegedly required the student to do an 'internship' of 180 hours of unpaid casual work over a period of four months before it started paying her wages.

It was allegedly unlawful for the internship to be unpaid because the student was performing productive work that was not a formal part of her university studies.

Documents filed in the Federal Circuit Court claim that after the internship period, the company paid the student a flat rate of \$100 a day, or \$13.33 an hour.

This was not enough to cover the minimum hourly rates and penalty rates she was entitled to under the Clerks – Private Sector Award 2010.

The other employee, who was originally from China but was a permanent resident of Australia, was allegedly also paid the same flat rate for all work she performed.

Under the Award, the two employees were allegedly entitled to be paid more than \$19 for normal hours and rates of up to \$38.30 for overtime, weekend and public holiday work.

Leave entitlements, pay-in-lieu of notice and frequency-of-pay laws were also allegedly breached.

The international student was allegedly underpaid a total of \$8387 and the other employee was allegedly underpaid a total of \$10,380.

Fair Work inspectors discovered the alleged underpayments when they investigated requests for assistance lodged by the employees.

Inspectors required an interpreter to communicate with the international student, who spoke limited English.

Mr Jiang was allegedly involved in his company contravening workplace laws by failing to comply with a Notice to Produce documents issued by inspectors.

Fair Work Ombudsman Natalie James says that while it is pleasing the company has back-paid the two workers in full, legal action has commenced because of the significant amounts involved for young and vulnerable employees.

Ms James says it was also of concern that Mr Jiang and a Melbourne media company he operates, 3CW Chinese Radio Pty Ltd, had previously been found to have underpaid two Chinese nationals more than \$60,000 in wages and entitlements.

The matter was the subject of an [Enforceable Undertaking \(http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2014-media-releases/september-2014/20140919-3cw-eu-presser\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2014-media-releases/september-2014/20140919-3cw-eu-presser) last year.

AIMG BQ allegedly committed multiple contraventions of workplace laws and faces maximum penalties of between and \$25,500 and \$51,000 per contravention.

Mr Jiang faces a maximum potential penalty of up to \$10,200 for one alleged contravention of workplace laws.

A hearing is listed in the Federal Circuit Court in Sydney on March 15, 2016.

The litigation comes after the Fair Work Ombudsman released a major research report into the issue of unpaid work in 2013, which found that growing numbers of Australian employers are using unpaid work schemes as an alternative to hiring paid staff.

Ms James says employers need to be aware that they are at risk of breaching workplace laws if they use unpaid work schemes as a source of free or cheap labor.

“When a worker moves beyond merely learning and observing and starts assisting with business outputs and productivity, workplace laws dictate that the worker must be paid minimum employee entitlements,” she said.

“We don’t want to stifle genuine learning opportunities that help young people get a foot in the door, but we also don’t want to see young people being treated unfairly through unpaid work schemes.

“We want to educate employers and workers about what genuine learning opportunities look like.”

Melbourne company [Crocmedia](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2015-media-releases/january-2015/20150129-crocmedia-penalty) was fined \$24,000 in January this year (<http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2015-media-releases/january-2015/20150129-crocmedia-penalty>) for implementing an unpaid work arrangement that led to two young employees being underpaid thousands of dollars.

The Fair Work Ombudsman has developed a range of resources – available at www.fairwork.gov.au/unpaidwork - for employers, employees and higher education institutions to promote a clear understanding in the community about what constitutes legitimate unpaid arrangements and vocational arrangements under the Fair Work Act.

They include fact sheets on topics including unpaid internships and work experience, unpaid trials, and vocational (student) placements. There is industry-specific information for the print and broadcast media, professional services, hair and beauty and hospitality sectors.

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