

Accounting firm faces Court over alleged involvement in underpayment of workers

19 September 2018

Note: On 7 December 2017, EZY Accounting 123 Pty Ltd filed an appeal in these proceedings. On 20 August 2018, the Full Court of the Federal Court handed down the decision of *EZY Accounting 123 Pty Ltd v Fair Work Ombudsman* [2018] FCAFC 134 dismissing the appeal with the exception of the contraventions relating to rest and meal breaks. As a result, the declaration in respect of rest and meal breaks was set aside and the penalty was varied to \$51,330.

19 February 2016

A Victorian accounting firm will face court over its alleged involvement in the underpayment of two Taiwanese backpackers working for one of its clients.

The Fair Work Ombudsman has commenced legal action against EZY Accounting 123 Pty Ltd in the Federal Circuit Court in Melbourne.

It is the first time the Agency has initiated proceedings against an accountant for allegedly knowingly being involved in contraventions of workplace law.

EZY Accounting 123 provided payroll services for Blue Impression Pty Ltd, operator of the Hanaichi QV fast-food outlet in Melbourne QV in the CBD. Blue Impression and its operations manager Sze Teng Wong are also facing Court.

Two Taiwanese employees in Australia on 417 working holiday visas were allegedly underpaid a total of \$9549 between September, 2014 and April, 2015.

EZY Accounting 123 allegedly processed wage payments for the two workers knowing the rates they were being paid were well below the lawful minimum.

They were allegedly paid flat rates as low as \$16.50 an hour, which was below the minimum hourly rate and not enough to cover public holiday penalty rates and weekend, night and casual loadings they were entitled to under the Fast Food Industry Award.

The workers, in their early to mid-20s, were allegedly also not provided with appropriate meal and rest breaks.

Blue Impression and EZY Accounting 123 each face Court penalties of up to \$51,000 per contravention and Ms Wong faces penalties of up to \$10,200 per breach.

Blue Impression was previously audited in 2014 as part of the Fair Work Ombudsman's proactive National Hospitality Campaign. It has previously been put on notice of its workplace obligations after it was found to have underpaid 12 employees a total of \$8800.

EZY Accounting 123 was also apprised of minimum Award rates at the time of the audit, as it assisted the company to calculate and rectify the wage underpayments.

For some years now, the Fair Work Ombudsman has been looking closely at the involvement of third parties in contraventions of workplace law.

"We have been concerned about the role of key advisers, such as accountants and HR professionals, in some serious and deliberate contraventions," says Fair Work Ombudsman Natalie James.

"Small business relies heavily on trusted advisers, and if they give incorrect or bad advice, or deliberately assist with the contravention, should they not be held accountable? "In situations where we believe accountants or other professionals knowingly facilitate contraventions of workplace laws, we are prepared to hold them to account."

Employers and employees seeking assistance can visit www.fairwork.gov.au or contact the Fair Work Infoline on 13 13 94. An interpreter service is available by calling 13 14 50.

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