

Probe into MCG supply chain finds alleged exploitation of visa-holders working as cleaners

NOTE: The Fair Work Ombudsman discontinued all allegations against ISS Facility Services Australia Limited managers Patrick Dalton, Brian Scharper and Miguel Rodriguez.

7 January 2016

The Fair Work Ombudsman has launched legal action against the Australian arm of a multi-national company over its alleged involvement in the exploitation of overseas workers at the iconic Melbourne Cricket Ground.

The Fair Work Ombudsman claims the pay packets of 11 overseas workers, mostly international students from India, the Philippines, Columbia and Brazil, were short-changed more than \$37,000 for cleaning the MCG after Australian Football League matches held at the ground in 2014.

As part of their investigation, Fair Work inspectors made a surprise site visit to the MCG after the 2014 AFL preliminary final between Hawthorn and Port Adelaide.

The Fair Work Ombudsman today announced legal proceedings against ISS Facility Services Australia Limited - part of the ISS Group that has operations in more than 45 countries - alleging it is an accessory to the alleged underpayments.

Also facing Court is the Melbourne-based company which allegedly directly employed the workers, First Group of Companies Pty Ltd.

ISS Facility Services Australia Limited holds a contract with the Melbourne Cricket Club to provide a variety of cleaning services at the MCG.

ISS Facility Services Australia Limited sub-contracted First Group of Companies Pty Ltd to assist with some post-event cleaning at the venue.

Cleaners employed by First Group of Companies Pty Ltd were allegedly underpaid their minimum hourly rates, casual loadings, allowances, minimum engagement, and penalty rates for night, weekend, public holiday and overtime work between March 24 and August 31, 2014.

The employees were allegedly paid flat rates of between \$18 and \$25 an hour, when under the Cleaning Industry Award, they were entitled to rates of between \$18 and \$46 for some shifts.

Individual underpayments allegedly range from \$276 to \$7272.

Documents filed with the Federal Circuit Court allege that ISS Facility Services Australia Limited knew the sub-contract price it paid First Group of Companies Pty Ltd was not enough to enable the company to pay its workers minimum lawful entitlements.

Further, ISS Facility Services Australia Limited was allegedly aware of the unlawfully low rates First Group of Companies Pty Ltd was paying workers, but took no action.

The Fair Work Ombudsman alleges the First Group of Companies Pty Ltd also breached laws relating to sham contracting, frequency-of-pay and pay-slips.

Also facing Court are ISS Facility Services Australia Limited managers Patrick Dalton, Brian Scharper and Miguel Rodriguez and First Group of Companies Pty Ltd owner-operators Sharad Patel and Sidarth Luthra.

ISS Facility Services Australia Limited and First Group of Companies Pty Ltd each face Court penalties of up to \$51,000 per contravention and the individuals each face penalties of up to \$10,200 per contravention.

The Fair Work Ombudsman is seeking a Court Order for First Group of Companies to rectify the alleged underpayments in full. To date, only some workers have been back-paid.

A directions hearing is listed for February 19 in Melbourne.

Fair Work Ombudsman Natalie James says the Agency is determined to build a culture of compliance with workplace laws across Australian workplaces by ensuring businesses take responsibility for workplace relations practices in their networks and supply chains.

“We are committed to scrutinising supply chains and sub-contracting arrangements and holding companies accountable for business practices that undermine compliance,” Ms James said.

“While many Australian employers want to do the right thing, there are some who seek to gain a competitive advantage by exploiting vulnerable workers, such as visa-holders.

“Companies found to be profiting from the underpayment of workers in their supply chains face legal risks, and risks to reputation and impact on their bottom line”.

Ms James says the Fair Work Ombudsman has a number of Inquiries underway to identify and address the structural and behavioural drivers of non-compliance in various industry networks and supply chains, in which overseas workers are heavily represented.

These include a review of the wages and conditions of workers in Australia on the 417 working holiday visa, an Inquiry into allegations of systemic non-compliance within the 7-Eleven franchise network, an Inquiry into the workplace arrangements of workers cleaning 4 and 5 star hotels and a Harvest Trail inquiry into the horticulture and viticulture sectors nationally.

The Fair Work Ombudsman will continue to work with Taskforce Cadena, the Phoenix Taskforce and other relevant state and federal agencies to share intelligence in relation to overseas workers' rights.

The Fair Work Ombudsman has also been working closely with key stakeholders in the cleaning industry to ensure compliance and best practice after finding the industry is characterised by layers of subcontracting, tight margins and a competitive tendering process.

“Cleaning contractors will continue to face ongoing spot checks by the Fair Work Ombudsman, as we endeavour to detect and deter deliberate non-compliance with federal workplace law,” Ms James said.

In 2010, a national cleaning campaign undertaken by the Agency recouped \$500,000 for 900 cleaners throughout Australia who were found to have been underpaid.

The results of a follow-up campaign released in March this year revealed another 1200 cleaners were found to have been short-changed almost \$763,000.

The largest underpayments were recorded in Victoria, where 36 cleaning contractors were required to reimburse 268 cleaners more than \$246,000.

Read the media release:

- [Cleaning contractors face more spot checks after \\$763,000 recovered for 1200 employees \(www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2015-media-releases/march-2015/20150312-national-cleaning-campaign-results\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2015-media-releases/march-2015/20150312-national-cleaning-campaign-results)

Any worker who is concerned they have been underpaid or treated unfairly at work can visit www.fairwork.gov.au or contact the Fair Work Infoline on 13 13 94 for free advice and assistance.

A free interpreter service for those from non-English speaking backgrounds is available by calling 13 14 50 and information about workplace laws is translated into 27 different languages on the [Language help page \(www.fairwork.gov.au/language-help/default\)](http://www.fairwork.gov.au/language-help/default) .

The Fair Work Ombudsman has also produced videos in 14 different languages to help people from non-English speaking understand their workplace rights on the [Fair Work Ombudsman's YouTube channel](http://youtube.com/user/FairWorkGovAu/videos) (http://youtube.com/user/FairWorkGovAu/videos) .

Follow Fair Work Ombudsman Natalie James on Twitter [@NatJamesFWO](http://twitter.com/NatJamesFWO) (http://twitter.com/NatJamesFWO) , the Fair Work Ombudsman [@fairwork_gov_au](http://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) .

Media inquiries:

Lara O'Toole, Media Adviser

Mobile: 0439 835 855

lara.otoole@fwo.gov.au (mailto:lara.otoole@fwo.gov.au)

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.