

## Taiwanese company faces Court for refusing to back-pay two Filipino workers almost \$62,000

16 June 2016

A Taiwanese-registered manufacturing corporation which makes and installs animal feed mills in regional NSW will face court for failing to co-operate with the Fair Work Ombudsman.

The Fair Work Ombudsman has commenced proceedings in the Federal Circuit Court against Chia Tung Development Corp Ltd and its director Michael Chen-Fa Lin.

It is the second time the Agency has taken enforcement action against the company.

Legal action follows Chia Tung's failure to comply with a formal Compliance Notice requiring a \$61,910 back-payment of two Filipino visa-holders.

Under the Fair Work Act, business operators must adhere to Compliance Notices or make a Court application for a review if they are seeking to challenge a Notice.

The Compliance Notice was issued on January 8 and sought rectification by January 22.

Chia Tung did not meet the deadline, alleging that Australian workplace law did not apply to the workers.

The Filipino workers were in Australia on a subclass 400 short-stay business visa between December, 2013 and August, 2014.

The Fair Work Ombudsman alleges that the two were paid a set monthly amount in US dollars, which was then converted to Philippine pesos, and equated to about \$A4.90 an hour.

Chia Tung allegedly did not pay the workers minimum rates, overtime or penalties for Sundays, public holidays and for work undertaken on a rostered day off.

Annual leave and leave loading on termination was also allegedly not paid.

Chia Tung is already subject to an Enforceable Undertaking (EU) with the Fair Work Ombudsman signed in March 2015.

The EU followed an investigation by the Fair Work Ombudsman into its employment of 43 workers on 457 visas between September, 2014, and February, 2015.

Action by the Fair Work Ombudsman ensured a back-payment of more than \$870,000 for the workers, also visa-holders from The Philippines and China. See the [Chinese, Filipino workers short-changed \\$873,000 and housed in overcrowded accommodation \(www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2015-media-releases/april-2015/20150420-chia-tung-eu-presser\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2015-media-releases/april-2015/20150420-chia-tung-eu-presser) media release.

The Fair Work Ombudsman has recently had a number of successes in court proceedings against operations which failed to comply with Compliance Notices.

Deputy Fair Work Ombudsman (Operations) Michael Campbell says the Agency prefers to assist employers to rectify non-compliance issues, but is prepared to take legal action against employers who refuse to co-operate.

"Building a culture of compliance with workplace law is important, and employers should be aware that we are prepared to take action where appropriate," Mr Campbell said.

"The integrity of the system must be upheld."

Mr Campbell says the Agency is working hard to ensure a level playing field for employers who are doing the right thing and meeting their workplace obligations.

"We are committed to helping employers understand and comply with workplace laws, but operators need to make an effort to get the basics right in the first place," he said.

He says Fair Work inspectors identifying issues in a workplace generally find that most employers are co-operative, engaging and willing to receive advice and assistance to rectify their mistakes and ensure future compliance.

"But we will take a dim view of those who give us the cold shoulder and refuse to work with us when we are trying to get to the bottom of an issue."

Mr Campbell reminded employers that there are minimum wage rates and entitlements and they apply to everyone, including visa holders.

Almost 12 per cent of all requests for assistance came from visa-holders last financial year and the Agency recouped \$1.6 million for underpaid visa-holders.

Mr Campbell encouraged employers who had any uncertainty about their workplace practices to visit the website at [www.fairwork.gov.au](http://www.fairwork.gov.au) or phone the Fair Work Infoline on 13 13 94.

An interpreter service is available by calling 13 14 50 and information on the website is translated into 27 languages.

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Fair Work Infoline: 13 13 94

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