

Former restaurant director's pay will be docked \$500 a fortnight to pay off Court penalties

22 March 2016

In a first, the Fair Work Ombudsman has successfully obtained a Court order for \$500 a fortnight to be taken from a former restaurant director's earnings to pay off outstanding court-imposed penalties.

Sona Peaks Pty Ltd (now in liquidation) and its then director David Anderson previously ran a restaurant at Bendigo, in Victoria's Goldfields region.

The former operators of the Curry Garden Indian Restaurant were first penalised a total of \$15,500 in January last year for refusing to back-pay an employee who was owed more than \$5000. See [Court rejects restaurant's bizarre demand to rectify underpayment of casual employee \(www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2015-media-releases/january-2015/20150130-sona-peaks-penalty-presser-e\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2015-media-releases/january-2015/20150130-sona-peaks-penalty-presser-e) for more information.

Six months later in July, 2015, the company and Mr Anderson were again collectively penalised another \$142,000 for repeatedly underpaying restaurant employees. See [Court imposes \\$142,000 penalty after restaurant operators refuse to back-pay nine workers \(www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2015-media-releases/july-2015/20150731-sona-peaks-penalty\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2015-media-releases/july-2015/20150731-sona-peaks-penalty) for more information.

Sona Peaks was placed in liquidation on September 2, 2015, following an application from the Fair Work Ombudsman to wind the company up.

However, Mr Anderson failed to pay the penalties imposed against him personally as the company's former director and sole operator.

Following an application by the Fair Work Ombudsman to the Federal Circuit Court, Judge John O'Sullivan has issued an Order requiring Mr Anderson to pay \$500 a fortnight until his penalties of \$26,715 are paid.

The money will be automatically deducted by his current Melbourne employer from his salary and paid direct to the Fair Work Ombudsman.

The fortnightly payments represent 19.5 per cent of Mr Anderson's net earnings.

The deductions will ensure the court penalties are paid in just over two years.

Mr Anderson, who failed to appear in Court for the proceedings, will also have a \$3 administrative fee taken from his pay to cover their costs of making the payments under the Order.

The Court also ordered that almost \$1600 in costs be included in the total penalty payable by Mr Anderson.

It is the first time the Fair Work Ombudsman has successfully obtained an Attachment of Earnings Order, which ensures penalties do not go unpaid.

Fair Work Ombudsman Natalie James says her Agency will not pull any punches when it comes to holding directors to account for court-imposed penalties.

"The integrity of the system must be upheld," she said.

"Building a culture of compliance with workplace law is important, and employers should be aware that we are prepared to take all actions available to us where appropriate.

"If business operators and directors do not co-operate with us and ignore their workplace obligations, if they fail to make good and pay penalties, we will not sit on our hands and let them get away with it."

Ms James says recalcitrant employers who repeatedly underpay their staff will face serious financial consequences.

"We are happy to resolve cases of inadvertent underpayments co-operatively with employers – but will not tolerate cases of repeated and blatant underpayments by employers who refuse to take corrective action," she said.

The latest success in obtaining the Attachment of Earnings Order sends a clear message to employers and directors who try to

ignore their obligations and refuse to pay penalties that they can be held to account.

Ms James encouraged employers who had any uncertainty about their workplace practices to visit the website at 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.

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

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Fair Work Online: www.fairwork.gov.au

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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

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