

Penalties for “appalling” conduct in unlawfully deducting \$130 000 from cleaners’ wages

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A businessman with a history of misconduct and his former human resources manager have been penalised for what a Judge has labelled “appalling” and “objectionable” conduct affecting vulnerable workers.

Travice Blom - who formerly operated recruitment and labour-hire company Oz Staff Career Services Pty Ltd - has been penalised \$14,960 for unlawfully deducting \$130,000 from the wages of 102 Melbourne cleaners and falsifying pay records to hide the practice.

In addition, former Oz Staff Career Services human resources manager Alex Linossi, has been penalised \$9920 for his part in facilitating some of the unlawful deductions and the false records.

The penalties, imposed in the Federal Circuit Court, are the result of legal action by the Fair Work Ombudsman.

Penalties could not be obtained against Oz Staff Career Services because the company was placed into liquidation last year.

Fair Work Ombudsman Natalie James says the penalties send a message that anyone involved in deliberately operating a business model that involves the exploitation of workers can face serious repercussions.

“We are prepared to use the accessorial liability provisions of the Fair Work Act, where it is in the public interest, to hold anyone to account for their involvement in exploiting workers,” Ms James said.

“This can include human resources and payroll officers, line managers, accountants and advisors and this means that even if a company is liquidated, it’s no guarantee of avoiding the consequences of non-compliance with the Fair Work Act.”

Ms James says business operators also need to be aware that deliberate contraventions of record-keeping laws are being treated particularly seriously.

In the 2015-16 financial year, 16 of the 50 legal actions (32 per cent) commenced by the Fair Work Ombudsman involved allegations of knowingly false or misleading records.

“I welcome the Government’s commitments to enhance workplace laws to better protect vulnerable workers, including increasing applicable penalties for serious record-keeping contraventions,” Ms James said.

The exploited employees - including many overseas, migrant and young workers - were supplied by Blom’s company to work as cleaners at Crown Casino and Federation Square.

‘Administration fees’ of around \$25 a week were deducted from employees’ wages between December, 2011 and May, 2013. Lesser amounts for ‘meal fees’ were deducted in 2012 and 2013.

The deductions were unlawful because they were not principally for the benefit of the employees and employees had not authorised them in accordance with workplace laws. Almost all workers have now been back-paid in full.

Fair Work inspectors discovered the unlawful deductions when they conducted an investigation after receiving allegations from workers.

The investigation also revealed that Blom and Linossi had contravened workplace laws during a previous Fair Work Ombudsman audit by providing inspectors with false and misleading records to conceal details of the deductions.

Judge Philip Burchardt found that the contraventions were deliberate and described them as “an appalling course of conduct”.

“This objectionable conduct has been exacerbated by the falsification of records issues,” Judge Burchardt said.

“It was not enough that these unlawful deductions were made, the respondents saw fit to be involved in endeavours quite plainly to conceal them.

“Creating and keeping false records and then producing them to try and defeat an audit is, at least in terms of the sort of conduct it represents, about as serious as it gets.”

Noting that Blom had been involved with another Oz Staff entity that was the subject of numerous complaints between 2006 and 2010 regarding wage deductions, Judge Burchardt said Blom had “a regrettably lengthy history of proven misconduct”.

Judge Burchardt said that while Linossi had been a “second-string player”, his conduct was “offensive” and he should be penalised. “People who are actively involved in misconduct of this sort need to know that it will not benefit them to do so,” Judge Burchardt said.

Judge Burchardt also noted that Blom seemingly continues to operate the business that was formerly Oz Staff Career Services through a successor company, Oz Staff Holdings Pty Ltd, and is the sole director of seven other companies.

“Something remarkably similar to the activities of (Oz Staff Career Services) is now carried on by another business of which (Blom) is the sole director,” Judge Burchardt said.

“It has all the appearance of being what is sometimes described as a ‘phoenix company’, although I should make it clear I do not formally make a finding to that effect.”

The Fair Work Ombudsman will refer the Court’s judgment to the Australian Securities and Investments Commission.

Employers and employees seeking assistance can visit www.fairwork.gov.au or call the Fair Work Infoline on 13 13 94. An interpreter service on 13 14 50 and the website contains materials translated into 27 different languages.

Tools and resources available on the website include templates for time-and-wages sheets and pay slips, and information on the laws that apply to deductions from wages.

The Fair Work Ombudsman’s Anonymous Report function enables members of the community to alert the Fair Work Ombudsman to potential workplace issues. Intelligence can be provided at www.fairwork.gov.au/tipoff (<http://www.fairwork.gov.au/tipoff>) .

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