

Overseas backpackers allegedly short-changed thousands while working on NT mango farms

23 September 2016

Young overseas backpackers recruited to work on mango farms near Darwin were allegedly underpaid almost \$36,000 in just two months.

Some were allegedly paid nothing at all for weeks of work picking, weeding and pruning.

Others, aged 19 and 20 at the time, were allegedly paid an average of \$2 an hour.

Most of the backpackers were in Australia on 417 working holiday visas when they worked on the mango farms between September and November last year.

The 417 visa-holders were from Germany, France, Italy, the Netherlands, the United Kingdom and Taiwan.

The Fair Work Ombudsman today announced it is taking legal action in the Federal Circuit Court against Mr Vinai Chaipom.

It is alleged that Mr Chaipom formerly ran a business trading as The Mango Shop, sourcing fruit from farms around Humpty Doo, and selling them via a roadside stall.

The business was registered to a young Belgian backpacker who was in Australia on a 417 working holiday visa, but who is now an international student.

However, the Fair Work Ombudsman alleges that Mr Chaipom controlled the business and was the true employer.

The Mango Shop allegedly underpaid 11 overseas workers and one permanent resident from New Zealand a total of \$35,630 for work performed on farms at Livingstone, Noomanah and Humpty Doo.

Most of the employees worked and camped on the mango farms.

The backpackers were hired after they responded to online job advertisements or approached Mr Chaipom for work.

Three of the overseas workers were allegedly paid nothing at all.

The New Zealand citizen was also allegedly paid nothing for four days' work.

Others allegedly received wages of between \$500 and \$1000, the equivalent of between \$2.68 and \$4.76 an hour.

As casual employees, they were entitled to be paid minimum hourly rates ranging from \$19.45 to \$21.61 under the Horticulture Award.

Individual underpayments allegedly range from \$648 to \$5119.

Mr Chaipom allegedly also failed to issue employees with pay-slips.

The Fair Work Ombudsman investigated after receiving requests for assistance from some of the employees.

In February this year, the Fair Work Ombudsman issued the business with a contravention letter requesting that the employees be reimbursed all outstanding entitlements.

However, the workers remain unpaid.

Some have since left Australia.

The Fair Work Ombudsman alleges that Mr Chaipom was educated about minimum Award rates in October, 2015 when inspectors visited mango farms as part of the Agency's national Harvest Trail Inquiry.

Mr Chaipom faces maximum penalties ranging from \$5400 to \$10,800 per contravention.

A directions hearing is scheduled for October 18.

Fair Work Ombudsman Natalie James says the alleged serious exploitation of vulnerable workers and the fact that Mr Chaipom had been put on notice of the need to pay lawful minimum rates were significant factors in the decision to commence legal action.

The Fair Work Ombudsman is also seeking a Court Order requiring Mr Chaipom to back-pay the workers the money allegedly owed.

In November last year, the former operators of the Java Spice Café Emporium in Darwin - husband-and-wife Peter and Moya Buckley and their company - were penalised \$73,000 for underpaying two Taiwanese backpackers.

In his judgment on that matter, Judge Stewart Brown said it was likely the exploited workers departed Australia "with a poor view of Australian employers or at least of employers in Darwin" and that the penalties should deter employers from conduct that could "tarnish Australia's reputation".

See the media release: [Court imposes hefty penalty to deter employers from exploiting overseas backpackers \(www.fair-work.gov.au/about-us/news-and-media-releases/archived-media-releases/2015-media-releases/november-2015/20151111-java-spice-penalty\)](http://www.fair-work.gov.au/about-us/news-and-media-releases/archived-media-releases/2015-media-releases/november-2015/20151111-java-spice-penalty) .

The Fair Work Ombudsman obtained wind-up orders against Mr and Mrs Buckley's company earlier this month after it failed to pay the penalty.

Another Darwin employer, Scott's Painting Service operator Scott Aeron Davenport, was also penalised \$15,000 by the Federal Circuit Court last November for deliberately exploiting four young French 417 working holiday visa-holders and failing to back-pay them thousands of dollars in unpaid wages.

See the media release: [15,000 fine for Darwin businessman who paid French backpackers less than \\$5 an hour \(www.fair-work.gov.au/about-us/news-and-media-releases/archived-media-releases/2015-media-releases/november-2015/20151124-scotts-painting-penalty\)](http://www.fair-work.gov.au/about-us/news-and-media-releases/archived-media-releases/2015-media-releases/november-2015/20151124-scotts-painting-penalty) .

Ms James says the Fair Work Ombudsman is devoting considerable resources to ensuring the many farms around the country that rely heavily on labour from overseas workers are complying with workplace laws.

The Harvest Trail Inquiry was launched in response to ongoing requests for assistance from employees in the horticulture sector and confusion among growers and labour-hire contractors about their workplace obligations.

"We are conscious many fruit pickers are young overseas workers, who may be vulnerable if they are not fully aware of their rights, are reluctant to complain or face language barriers," Ms James said.

"It's important we are proactive about ensuring they receive their full lawful entitlements."

The Fair Work Ombudsman is also finalising a national review of the wages and conditions of overseas workers in Australia on the 417 working holiday visa after receiving allegations that some unscrupulous operators were exploiting backpackers.

A report will be released soon.

The Fair Work Ombudsman recovered more than \$3 million in underpaid wages and entitlements for 687 visa-holders last financial year.

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 on 13 14 50.

Information on the website to assist people from culturally and linguistically diverse backgrounds has been translated into 27 languages.

Ms James said the Agency recently launched an Anonymous Report function which enables members of the community to alert the Fair Work Ombudsman to potential workplace issues.

Intelligence can be provided confidentially at www.fairwork.gov.au/tipoff (<http://www.fairwork.gov.au/tipoff>) .

"While many 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," she said.

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>) .

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:

Ryan Pedler, Assistant Media Director

Mobile: 0411 430 902

ryan.pedler@fwo.gov.au (<mailto:ryan.pedler@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.