

## Farmers penalised almost \$70,000 for short-changing 417 visa-holders \$2600

26 September 2016

The operators of a Queensland farm with a history of flouting workplace laws have been penalised almost \$70,000 and ordered to overhaul their workplace practices following legal action by the Fair Work Ombudsman.

The Federal Circuit Court has imposed the penalties against the operators of a strawberry farm on Newlands Road at Cottonvale, near Stanthorpe.

Farm owner Hour Him and his partner Tay-Duc Nguyen, the farm's former operations manager, have each been penalised \$6400 - and Him's company, I Luv Pty Ltd, has been penalised a further \$56,000.

The Fair Work Ombudsman discovered that six overseas workers had been underpaid a total of \$2601 when the farm was audited last year as part of the Agency's national Harvest Trail Inquiry.

The six employees, who were on 417 working holiday visas, were underpaid over a two-week period between March 28 and April 10, 2015.

It was not the first time that workers on the property had been underpaid.

In 2013, the Fair Work Ombudsman required I Luv Pty Ltd to back-pay nine employees more than \$21,000.

The company also received two contravention letters and a formal Letter of Caution placing it on notice that further breaches could result in enforcement action.

Fair Work Ombudsman Natalie James says the Court's decision sends yet another clear message to rural employers that exploitation of overseas workers on their properties will not be tolerated.

As well as imposing the financial penalties, Judge Salvatore Vasta also agreed to make additional Orders aimed at overhauling workplace practices on the farm. These were agreed to by the operators.

Judge Vasta ordered I Luv Pty Ltd to commission an external audit of its compliance with workplace laws next year and provide the Fair Work Ombudsman with a report on the findings, including steps taken to rectify any non-compliance.

Him and Nguyen have been instructed to undertake training in relation to their workplace obligations under Australian laws.

I Luv Pty Ltd must register with the My Account service at [www.fairwork.gov.au](http://www.fairwork.gov.au) and use the educational self-help tools for employers.

Ms James said it was unacceptable that Him, who was previously a member of Growcom Australia and the Queensland Strawberry Growers' Association, continued to disregard his workplace responsibilities after having previously been put on notice of his lawful obligations in 2013.

She said the Fair Work Ombudsman was devoting considerable resources to ensuring the many farms around the country that relied heavily on labour from overseas workers were 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 pro-active 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 publicly 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](http://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.

Last week, the Fair Work Ombudsman announced it had signed an Enforceable Undertaking with a labour hire company which had short-changed dozens of Korean backpackers working on a carrot farm in South-East Queensland. Read the media release: Labour-hire contractor signs workplace pact after underpaying Korean workers thousands of dollars ([www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2016-media-releases/september-2016/20160921-boonah-packing-eu-presser](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2016-media-releases/september-2016/20160921-boonah-packing-eu-presser)) .

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## Contact us

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Fair Work Infoline: 13 13 94

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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

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