

ENFORCEABLE UNDERTAKING

Between

The Commonwealth of Australia

(as represented by the Office of the Fair Work Ombudsman)

and

MADE Establishment Pty Ltd (ACN: 132 388 857)

ENFORCEABLE UNDERTAKING

PARTIES

1. This enforceable undertaking (**Undertaking**) is given to the Fair Work Ombudsman (**FWO**) pursuant to section 715 of the *Fair Work Act 2009* (Cth) (**FW Act**) by MADE Establishment Pty Ltd (ACN: 132 388 857) (**MADE Establishment**) of 6 Palmer Parade, Cremorne, VIC 3121.

COMMENCEMENT

2. This Undertaking comes into effect when:
 - a. the Undertaking is executed by MADE Establishment; and
 - b. the FWO accepts the executed Undertaking (hereinafter referred to as the **Commencement Date**).

BACKGROUND

3. MADE Establishment operates a number of restaurant/fast food businesses in Melbourne as part of the MADE Group of Restaurants, including:
 - a. The Press Club Restaurant and Bar Pty Ltd trading as:
 - i. The Press Club located at 72 Flinders St, Melbourne;
 - ii. The Press Club Projects located at 52 Flinders St, Melbourne; and
 - iii. Gazi located at 2 Exhibition St, Melbourne.
 - b. Hellenic Republic and Bar (Kew) Pty Ltd located at 26 Cotham Rd, Kew;
 - c. Hellenic Hotel Williamstown Pty Ltd located at 28 Ferguson St, Williamstown;
 - d. Hellenic Republic and Bar (Brunswick) Pty Ltd located at 434 Lygon St, Brunswick East; and
 - e. Elektra Restaurant & Bar Pty Ltd trading as Hellenic Republic Brighton located at 25/27 Church St, Brighton.

(Collectively, the **MADE Group**)
4. Separate to the MADE Group is Jimmy Grants Pty Ltd, which shares common shareholders, directors and certain executive staff with the MADE Group. Jimmy Grants operates 8 outlets selling fast food style Greek food in Victoria, including but not limited to the following:
 - a. JG (Emporium) Pty Ltd located at Emporium, 287 Lonsdale Street, Melbourne; and
 - b. JG (Fitzroy) Pty Ltd located at 113 St. David Street, Fitzroy.

(Collectively, **Jimmy Grants**)

5. In April 2017 representatives of MADE Establishment at their own initiative notified the FWO that they had identified non-compliance with the *Restaurant Industry Award 2010* (**Restaurant Award**) within the MADE Group, including the Press Club Restaurant & Bar, Gazi, Hellenic Republic Brunswick, Hellenic Republic Kew and Hellenic Hotel Williamstown (**the Self-Disclosure**).
6. Prior to the Self-Disclosure, MADE Establishment had taken a number of steps to address the non-compliance within the MADE Group, including commissioning an external audit by KPMG, reviewing classification levels of all employees, implementing a central Human Resources function, developing new systems and processes and back-paying (then) current employees.

CONTRAVENTIONS

7. MADE Establishment admits that it contravened the following provisions of the FW Act and the *Fair Work Regulations 2009* (Cth) (**FW Regulations**) during periods from 2011 to 2017:

Entity	Contraventions
The Press Club Restaurant and Bar Pty Ltd:	<p>Section 45 of the FW Act by contravening the following provisions of the Restaurant Award:</p> <ul style="list-style-type: none"> a. Clauses 20.1 and 20.3 – minimum rates of pay (casual employees) b. Clause 13.1 – casual loading (casual employees) c. Clause 34.1 – Saturday, Sunday and Public Holiday penalty rates (casual employees) d. Clauses 33.2(b) and (c) – Saturday and Sunday overtime (annualised salary employees) e. Clause 24.2 – split shift allowance (annualised salary employees) f. Clause 32.4 – penalty for working through a meal break (casual and annualised salary employees) g. Clause 34.2(a)(i) and (ii) – early morning and evening penalty rates (casual employees) h. Clause 12.3 – failing to make and keep part time work agreements (annualised salary employees) i. Clause 28.2 – failing to keep a record of start and finish times (annualised salary employees)
Hellenic Republic and Bar (Kew) Pty Ltd:	<p>Section 45 of the FW Act by contravening the following provisions of the Restaurant Award:</p> <ul style="list-style-type: none"> a. Clauses 20.1 and 20.3 – minimum rates of pay (casual employees) b. Clause 13.1 – casual loading (casual employees) c. Clause 34.1 – Sunday penalty rates (casual employee)

	<ul style="list-style-type: none"> d. Clause 33.2(c) – Sunday overtime (annualised salary employees) e. Clause 32.4 – penalty for working through a meal break (casual and annualised salary employees) f. Clause 34.2(a)(i) and (ii) – early morning and evening penalty rates (casual employees) g. Clause 35.2(b) – annual leave loading (annualised salary employees)
Hellenic Hotel Williamstown Pty Ltd:	<p>Section 45 of the FW Act by contravening the following provisions of the Restaurant Award:</p> <ul style="list-style-type: none"> a. Clauses 20.1 and 20.3 – minimum rates of pay (casual employee) b. Clause 13.1 – casual loading (casual employee) c. Clause 34.1 – Saturday and Sunday penalty rates (casual employee) d. Clauses 33.2(a), (b) and (c) – Weekday, Saturday and Sunday overtime (annualised salary employees) e. Clause 24.2 – split shift allowance (annualised salary employees) f. Clause 32.4 – penalty for working through a meal break (casual and annualised salary employees) g. Clause 34.2(a)(i) and (ii) – early morning and evening penalty rates (casual employee) h. Clause 35.2(b) – annual leave loading (annualised salary employees)
Hellenic Republic and Bar (Brunswick) Pty Ltd:	<p>Section 45 of the FW Act by contravening the following provisions of the Restaurant Award:</p> <ul style="list-style-type: none"> a. Clauses 33.2(a), (b) and (c) – weekday, Saturday and Sunday overtime (annualised salary employees) b. Clause 32.4 – penalty for working through a meal break (casual and annualised salary employees) c. Clause 35.2(b) – annual leave loading (annualised salary employees)
JG (Emporium) Pty Ltd	<p>Section 45 of the FW Act by contravening the following provisions of the Fast Food Industry Award 2010 (Fast Food Award):</p> <ul style="list-style-type: none"> a. Clause 13.2 – casual loading (casual employees) b. Clause 13.4 – minimum engagement (casual employees) c. Clause 17 and 18 – minimum rates of pay (casual employees) d. Clause 25.5(a)(i), 25.5(b) and 25.5(c) – evening work, Saturday and Sunday penalty rates (casual employees) e. Clause 30.3 – public holiday penalty rate (casual employees)

JG (Fitzroy) Pty Ltd	<p>Section 45 of the FW Act by contravening the following provisions of the Restaurant Award:</p> <ul style="list-style-type: none"> a. Clauses 20.1 and 20.3 – minimum rates of pay (casual employees) b. Clause 13.1 – casual loading (casual employees) c. Clause 34.1 – Saturday and Sunday penalty rates (casual employees) d. Clause 34.2(a)(i) – evening work penalty (casual employees)
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8. The contraventions of clauses 24.2, 33.2(a), 33.2(b) and 33.2(c) of the Restaurant Award in respect of the annualised salary employees (as set out in the table at paragraph 7 above) arose because MADE Establishment failed to comply with the annualised salary provisions in the Restaurant Award.
9. MADE Establishment has back-paid \$7,832,953 in wages and superannuation to 515 current and former employees of the Made Group. In addition, \$16,371.49 has been paid to nine employees of Jimmy Grants. All of these payments were made prior to the execution of this Undertaking.
10. The back-payments rectified underpayments arising between 2011 to 2017, as a result of employees not being paid at the correct classification level under the Restaurant Award, employees working hours that were not adequately compensated by annualised salaries during the period and the incorrect application of the Restaurant Award to JG (Emporium) Pty Ltd.
11. These contraventions occurred notwithstanding that on 16 October 2015 the FWO sent a Letter of Caution (LOC) to the directors of Press Club Restaurant & Bar Pty Ltd, indicating that the FWO had identified underpayments in respect of one employee of the Press Club. The LOC stated that the FWO had identified an alleged contravention of clause 28.1(a) of the Restaurant Award during a sample period of four weeks, and that the FWO required Press Club to undertake annual reconciliations of all employees paid under an annualised salary arrangement pursuant to clause 28.2 of the Restaurant Award and rectify any underpayments that may have occurred.
12. On 30 October 2015, in response to the LOC, George Calombaris, on behalf of the Press Club, sent FWO a letter, which stated that the Press Club would carry out reconciliations for each employee engaged on an annualised salary and rectify any identified shortfall. These reconciliations were not subsequently undertaken at the end of each year.

ENFORCEABLE UNDERTAKING

13. Upon the Commencement Date of this Undertaking and for the purposes of section 715 of the FW Act, MADE Establishment undertakes to take the following actions set out at paragraphs 14 to 40 below.

FWO My account registration

14. Within 28 days of the Commencement Date, MADE Establishment will:
 - a. register with the FWO 'My account' portal at www.fairwork.gov.au/register and fully complete the 'My account' profile, including information about the business and award/agreement coverage, through this portal; and
 - b. provide to the FWO the 'My account' Customer Registration Number (CRN).
15. Within 28 days of the Commencement Date, MADE Establishment will:
 - a. subscribe to the FWO's subscription service and provide evidence to the FWO of the subscription;
 - b. subscribe to the FWO's 'Subscribe to email updates' function available at <http://www.fairwork.gov.au/website-information/staying-up-to-date/subscribe-to-email-updates>; and
 - c. choose the relevant State/s and industry, selecting information updates on the following options:
 - i. pay rates and entitlements;
 - ii. new products and resources;
 - iii. about us and our work;
 - iv. updates in my industry; and
 - v. tailored information that's relevant to me.

Workplace relations systems and processes

16. Within 90 days of the execution of this Undertaking MADE Establishment must, to the extent that it has not already done so, implement systems and processes to monitor compliance at all times and in all respects with:
 - a. the FW Act;
 - b. the FW Regulations;
 - c. the Restaurant Award;
 - d. the *Fast Food Industry Award 2010*;
 - e. the *Superannuation Guarantee (Administration) Act 1992 (Cth)*¹;
 - f. the *Superannuation Guarantee Charge Act 1992 (Cth)*¹;
 - g. the *Superannuation Industry (Supervision) Act 1993 (Cth)*¹;

¹ To the extent that such obligations are contained in an Award.

- h. the *Superannuation (Resolution of Complaints) Act 1993 (Cth)*¹; and
- i. any other applicable industrial instruments, including but not limited to awards or registered agreements,

(Collectively, the **Relevant Provisions**).

17. Within 60 days of the date of execution of this Undertaking, MADE Establishment must provide to the FWO details of systems and processes already in place, or to be implemented, to comply with paragraph 16 above. Without limitation, such systems and processes must relate to:
 - a. ensuring employees receive the correct minimum rates of pay and entitlements, including but not limited to penalty rates and overtime rates;
 - b. ensuring processes are in place for reconciliations of annualised salary arrangements (where applicable) including:
 - i. in addition to the requirement for an annual reconciliation as set out in the Restaurant Award, quarterly tracking systems to ensure annualised salaries are aligned with working patterns and to facilitate monitoring and provisioning of funds to provide for payments of any shortfalls to be made in accordance with paragraph 17.b.ii below; and
 - ii. where annual reconciliations have revealed a shortfall between the employee's entitlements under the Restaurant Award and the actual payment received for that year, making payment of the shortfall to the employee within 14 days of the reconciliation being conducted.
 - c. ensuring systems and policies are in place for the accurate recording of hours of work of employees (including but not limited to dates, start time, finish time and break times), including employees on annualised salaries, and that these systems and policies are adhered to by all employees to ensure efficacy;
 - d. issuing payslips to employees within one (1) working day of payment; and
 - e. keeping accurate and complete records to ensure employees receive their correct wages and entitlements.
18. For the purposes of the annual reconciliations referred to in paragraph 17 above, the annual reconciliation period is each 12 months from the commencement of the annualised wage arrangement or upon the termination of employment of the employee.

Workplace relations training

19. Within 120 days of the Commencement Date, MADE Establishment must ensure that all persons within the MADE Group or Jimmy Grants who have responsibility for human resources, recruitment and payroll functions, or responsibility for on-site management (including but not limited to Venue Managers, Restaurant Managers, Assistant Restaurant Managers, Supervisors, Head Chefs, Sous Chefs and Chef de Parties), have completed suitable and up to date training on compliance with applicable workplace laws and instruments, including but not limited to the rights and responsibilities of employers under the FW Act and the Restaurant Award (**Training**).
20. The Training must be conducted by a workplace trainer, and such person or organisation must be approved by the FWO and paid for by MADE Establishment.
21. MADE Establishment must:
 - a. provide the training materials to be used in the Training to the FWO no later than 14 days before the Training is to be conducted; and
 - b. provide evidence of attendance at the Training to the FWO within 7 days of the Training being delivered (including the names and positions of all attendees and the date on which the training was attended).
22. During a period of two years starting from the Commencement Date, MADE Establishment must ensure that Training is conducted in the manner prescribed in paragraphs 19 to 21 in relation to any new or existing employees or contractors with the MADE Group or Jimmy Grants who acquire responsibilities for any of the functions referred to in paragraph 19 above. The Training must be undertaken, and evidence provided to the FWO, within 90 days of the relevant employee or contractor taking on responsibility for the functions.

Audit Activity

23. MADE Establishment must cause to have performed by certified external auditor or an employment law specialist, at MADE Establishment's expense, audits of the businesses in the MADE Group and Jimmy Grants (including but not limited to Press Club Restaurant and Bar, Hellenic Republic branded restaurants, Gazi and Jimmy Grants) of compliance with the Relevant Provisions (**Audits**).
24. The methodology for the Audits is to be agreed in advance with the FWO and will include assessment of the pay and conditions of the following sample of employees across the MADE Establishment business (**Audit Sample Employees**):
 - a. 15% of all employees not subject to annual salary arrangements and all employees subject to annual salary arrangements in year one – Audit one;
 - b. 15% of all employees not subject to annual salary arrangements and all employees subject to annual salary arrangements in year two – Audit two; and

- c. 15% of all employees not subject to annual salary arrangements and all employees subject to annual salary arrangements in year three – Audit three.
- 25. The Audits will as a base requirement include:
 - a. at least two full pay periods for employees not subject to annual salary arrangements;
 - b. annual reconciliations, or if annual reconciliations are unavailable (because an employee has not completed 12 months from the commencement of the annualised wage arrangement), quarterly tracking information (as referred to in paragraph 17.b.i above), for employees that are subject to an annualised salary arrangement;
 - c. employees in a range of classification (including both managerial and non-managerial employees) and employment types (full time, part time and casual employees); and
 - d. employees from a range of businesses and sites.
- 26. In addition to the requirements in paragraphs 24 to 25 above, the methodology for the Audits will require that interviews be conducted by the auditors with at least 50% of the Audit Sample Employees not subject to annual salary arrangements and 50% of the Audit Sample Employees who are subject to annual salary arrangements. The topics to be discussed during the interviews will include the Audit Sample Employees':
 - a. position and duties performed;
 - b. hours of work and breaks;
 - c. method for recording start time, finish time and breaks;
 - d. wages paid for work performed; including hourly rates of pay or salary, and
 - e. for employees subject to an annualised salary, whether annual salary reconciliations have been undertaken.
- 27. MADE Establishment will ensure that the following requirements are met:
 - a. Two months prior to each of the Audits due date/s, as specified below, MADE Establishment will provide for the FWO's approval, details of the methodology to be used to conduct the Audits;
 - i. Audit one is to be finalised and a report on the outcome of the audit is to be provided to the FWO by 31 March, 2020;
 - ii. Audit two is to be finalised and a report on the outcome of the audit is to be provided to the FWO by 31 October 2021; and
 - iii. Audit three is to be finalised and a report on the outcome of the audit is to be provided to the FWO by 31 October, 2022;

- b. Each report must include details of MADE Establishment's compliance or non-compliance with the relevant legislation and award provisions agreed as part of the respective audit methodologies with a separate section of this report specifically detailing outcomes in relation to annualised salary audits.
- c. In the event any of the Audits disclose contraventions of any applicable Commonwealth workplace law and/or instruments, all such contraventions must be rectified within 14 days of each of the finalisation dates specified in paragraph 27a above, including rectification of any and all underpayments to employees. Evidence of rectification must be provided to the FWO within 14 days of rectification occurring.
- d. If requested in writing to do so, provide the FWO with all records and documents used to conduct the audit, including any working documents, within 7 days of receiving such a request.

Matters notified to the FWO

- 28. Where the FWO receives a request for assistance in relation to a MADE Establishment employee or former employee regarding alleged non-compliance with the relevant award or legislative requirement the FWO may, at its discretion, notify MADE Establishment and its officers and provide relevant details.
- 29. Where a matter of the kind contemplated by paragraph 28 is notified to MADE Establishment, MADE Establishment undertakes to fully co-operate with the FWO to ensure compliance. This includes:
 - a. Determining an appropriate outcome for the matter within 45 days of notification; and
 - b. Advising the FWO of their determination and actions in relation to the matter including:
 - i. the reasons for the determination and any compliance issues identified;
 - ii. the details of any underpayments and amounts rectified;
 - iii. steps taken to address any compliance issues identified, including for any similarly affected employees; and
 - iv. if any matter remains unresolved, the steps taken by MADE Establishment to facilitate the resolution of any such matter.
 - c. The FWO reserves the right to investigate any allegations.
 - d. The FWO may advise MADE Establishment of any active investigations the FWO is undertaking. If this is the case MADE Establishment undertakes to:
 - i. provide all requested employment records and other documentation to the FWO relevant to the investigation;

- ii. participate fully in any subsequent requests for information relevant to the investigation; and
- iii. fully co-operate in FWO's investigative processes.

Media, Communications and Education Commitments

30. Within 30 days of the FWO publishing a media release on the FWO's website in respect of this Undertaking MADE Establishment will, at its own expense, publish a written public apology (**Apology**) from Made Establishment on MADE Establishment's social media and websites (including those social media channels and websites relating to all businesses within the MADE Group and Jimmy Grants), and in the following industry magazines and newspapers:

Nature of media:	Name of magazine/newspaper
Mainstream media	<ul style="list-style-type: none"> • The Weekend Australian; • The Saturday Age; and • The Saturday Herald Sun.
Industry media	<ul style="list-style-type: none"> • Food & Beverage Industry News; • Hospitality Magazine; • Restaurant & Catering Magazine.

31. The Apology published on Made Establishment websites (including websites relating to all businesses within the MADE Group and Jimmy Grants) must:
 - a. be in the form of the Apology set out at Attachment A;
 - b. be displayed in at least size 11 font;
 - c. be located on the home page of the website or another prominent position on the website as agreed to by the FWO. If the apology cannot be situated on the home page for practical reasons, a link using the words 'Our apology: employee underpayments' will be prominently displayed on the home page; and
 - d. remain on the website for a period of 3 months.
32. The Apology published on Made Establishment's social media channels being its Facebook and Twitter accounts (including those social media channels relating to all businesses within the MADE Group and Jimmy Grants) must:
 - a. be posted to the above social media channels in public view;
 - b. remain pinned or bookmarked to the top of any Facebook and Twitter pages for a continuous period of at least 14 days; and

- c. be in the form of the Apology set out at Attachment A.
- 33. The Apology published in the industry magazines and newspapers referred to in paragraph 30 above must:
 - a. be in the size of:
 - i. half a page in newspapers; and
 - ii. a full page in magazines;
 - b. appear within the first 5 pages of the industry magazine and newspaper; and
 - c. be in the form of the Apology set out at Attachment A.
- 34. MADE Establishment will provide evidence of the placement of the Apology on its websites, social media channels and in the industry magazines and newspapers referred to in paragraph 30 above to the FWO on the date each of the placements occur.
- 35. MADE Establishment will demonstrate its commitment to promoting general deterrence in the restaurant industry and education of industry leaders by George Calombaris participating in a selection of activities as set out in Attachment B.
- 36. Any costs associated with George Calombaris participating in the activities set out in Attachment B, including but not limited to travel costs, are to be at MADE Establishment's expense.

Contrition Payment

- 37. MADE Establishment will, within 120 days of the Commencement Date, make a contrition payment of \$200,000 to the Commonwealth and provide evidence of the payment to FWO within seven days of the payment being made. A receipt will be issued upon confirmation of payment being received.

Reporting

- 38. MADE Establishment will notify the FWO of any changes of circumstances that could potentially impact on MADE Establishment's ability to comply with the undertakings contained in this Undertaking, as soon as it becomes aware that such circumstances have occurred or are likely to occur. Such circumstances shall include but not be limited to:
 - a. sale or potential sale of the businesses, or part of the businesses within the MADE Group or Jimmy Grants;
 - b. change of or change in details of company directors, or other officeholder positions;
 - c. MADE Establishment or its directors opening any new establishments or businesses, or acquiring any existing businesses establishments, whether alone or in partnership with another entity;
 - d. ceasing or an expectation of ceasing to trade; and
 - e. MADE Establishment going in to, or having an expectation of going in to, administration or liquidation.

39. In the event that there are any events or circumstances required to be reported to the FWO as described in paragraph 38 above, MADE Establishment will provide any documentation or other evidence requested in writing by the FWO to confirm the events or circumstances that have transpired or are anticipated.

No Inconsistent Statements

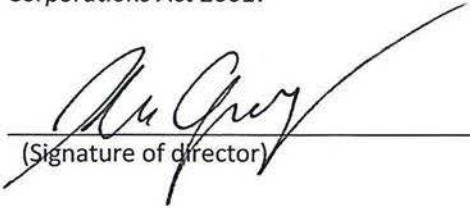
40. MADE Establishment must not, (and must ensure that each of its officers, employees or agents do not), make any statement (orally or in writing), or otherwise imply anything that is inconsistent with this Undertaking, including its Annexures.

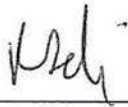
ACKNOWLEDGEMENTS

41. MADE Establishment acknowledges that:
- a. the FWO may:
 - i. make this Undertaking (and any of the Attachments hereto) available for public inspection, including by posting it on the FWO internet site at www.fairwork.gov.au;
 - ii. release a copy of this Undertaking (and any of the Attachments hereto) pursuant to any relevant request under the *Freedom of Information Act 1982* (Cth);
 - iii. issue a media release in relation to this Undertaking;
 - iv. from time to time, publicly refer to the Undertaking (and any of the Attachments hereto) and its terms, and rely upon the admissions made by MADE Establishment in this Undertaking in respect of decision making concerning any future non-compliance with MADE Establishment's workplace relations obligations.
 - b. consistent with the Note to section 715(4) of the FW Act, this Undertaking in no way derogates from the rights and remedies available to any other person arising from the conduct set out herein;
 - c. consistent with section 715(3) of the FW Act, MADE Establishment may withdraw from or vary this Undertaking at any time, but only with the consent of the FWO; and
 - d. if MADE Establishment contravenes any of the terms of this Undertaking:
 - i. the FWO may apply to any of the Courts set out in section 715(6) of the FW Act, for orders under section 715(7) of the FW Act; and
 - ii. this Undertaking may be provided to the Court as evidence of the admissions made by MADE Establishment in this Undertaking, and also in respect of the question of costs.

Executed as an undertaking

EXECUTED by Made Establishment Pty Ltd (A.C.N. 132 388 857) in accordance with section 127(1) of the *Corporations Act 2001*:


(Signature of director)


(Signature of director/company secretary)


ADAM GREGORY
(Name of director)

RADEK SALI
(Name of director/company secretary)

16.07.2019
(Date)

16.07.2019
(Date)


ACCEPTED by the FAIR WORK OMBUDSMAN pursuant to section 715(2) of the *Fair Work Act 2009* on:


Michael Campbell – Deputy Fair Work
Ombudsman

17/7/2019
(Date)

Delegate for the FAIR WORK OMBUDSMAN

in the presence of:


(Signature of witness)

LOUISE CATO
(Name of Witness)

Attachment A: Public Apology from MAdE Establishment

[Insertion of the following logos: FWO logo, MADE Establishment logo, Hellenic Republic logo, Press Club logo, Jimmy Grants logo]

In early 2017, following a change in ownership and management, MAdE Establishment conducted a review of its records and identified circumstances where it had failed to correctly pay many of its employees. MAdE Establishment self-reported this to the Fair Work Ombudsman (FWO) which subsequently commenced an investigation into Jimmy Grants and the MAdE Establishment group of companies, being the Hellenic Republic, Press Club and Gazi restaurants.

Since first identifying the underpayment issues, the MAdE Establishment group has back-paid 515 current or former employees \$7.83m. This amount comprised underpayments for the admitted contraventions listed below. In some cases, workers were incorrectly classified. Record-keeping laws relating to time records for some annualised salary employees were not adhered to, contributing to underpayments.

The FWO also found underpayments of about \$16,000 for 9 employees at two Jimmy Grants stores. Jimmy Grants (Emporium) and Jimmy Grants (Fitzroy) incorrectly classified some workers and for some employees the wrong award was applied, resulting in underpayments of base rates for ordinary hours and a range of penalty rates.

MAdE Establishment has formally admitted to the FWO that contraventions relating to the following failures occurred and has entered into an Enforceable Undertaking (EU) with the FWO (available at www.fairwork.gov.au) committing to a number of measures to remedy the contraventions, rectify workplace practices and ensure future compliance:

- failing to pay: minimum rates of pay, casual loadings, Saturday, Sunday, Public Holiday, early morning and evening penalty rates, overtime rates, split shift allowances, minimum hourly engagements, penalties for working through meal breaks and annual leave loadings;
- failing to conduct annual reconciliations for those employees paid through an annual salary arrangement to ensure those employees had been properly remunerated for all accrued overtime and penalty rates;
- failing to make and keep part time work agreements; and
- failing to keep a record of start and finish times for employees on annualised salaries.

The commitments made by MAdE Establishment in the EU include:

- a contrition payment of \$200,000 to the Commonwealth;
- committing to workplace relations training for all staff with responsibility for human resources, recruitment, on-site management or payroll functions;
- completing audits for a period of three years;
- implementing systems and processes to monitor compliance at all times;
- registering with the FWO 'My account' portal; and
- a commitment from George Calombaris to promote compliance within the restaurant industry

and to educate fellow industry leaders about the importance of complying with the Fair Work Act.

MAdE Establishment expresses its sincere regret and apologises for the conduct that resulted in the contraventions. MAdE Establishment is committed to ensuring compliance with Commonwealth workplace laws and becoming a force for change in the industry.

George Calombaris, founding shareholder (shareholder 2008-current, director 2008-2018)

Radek Sali, Director of MAdE Establishment (director 20 December, 2016-current, shareholder 20 December, 2016 - current)

Adam Gregory, Director of MAdE Establishment (director 26 April, 2017-current, shareholder 28 August, 2017 -current)

Attachment B: Agreed Speaking Engagements

1. George Calombaris, on behalf of MAdE Establishment, is to participate in a minimum of 7 agreed speaking engagements as follows:
 - a. 3 speaking engagements in the first year following the Commencement Date;
 - b. 2 speaking engagements in the second year following the Commencement Date; and
 - c. 2 speaking engagements in the third year following the Commencement Date.(collectively, the **Speaking Engagements**).
2. The Speaking Engagements will:
 - a. be chosen by MAdE Establishment from the table of events listed in Table 1 and/or such other events as may be agreed in advance no less than 30 days prior to the event with such events to be delivered to prominent industry audiences in Australia; and
 - b. include, prominently, spoken content which communicates the need for compliance with workplace laws and the consequences of not doing so, including reference to this Enforceable Undertaking and MAdE's admitted contraventions and otherwise communicated in a manner that is consistent with George Calombaris' usual language and style.
3. The FWO must not unreasonably withhold its consent to any request for approval made under clause 2.a. (above).

Table 1: Agreed Speaking Engagements .

Events targeting all businesses in the hospitality industry

Event/title	Date	Location (city)	Description (incl expected numbers if avail)	Frequency of event	Website	Name of the organiser
Fine Food Australia	9-12 Sept 2019 (and future occurrences of this event during the period of this Enforceable Undertaking.)	Sydney	Leading trade exhibition. 26000+ attendees over 4 days. "Learn from food industry leaders and successful operators covering practical solutions to common food business issues, including staffing..."	Annual	https://finefoodaustralia.com.au/	Find Food Australia
Food & Hospitality Queensland	4-5 August 2019 (and future occurrences of this event during the period of this Enforceable Undertaking.)	Brisbane Brisbane Convention & Exhibition Centre	Showcases the latest, food, drink and equipment for your business 150 exhibitors plus special events including the Queensland Chef of the Year, the Aged Care Catering Summit and Cafe School. Entry is free but you must work in a food or hospitality business. <i>Note this is a business event. There is no public entry.</i>	Annual	www.foodandhospitality.com.au	Specialised Events

Foodservice Australia – The Industry Event	23 – 25 June 2019 (and future occurrences of this event during the period of this Enforceable Undertaking.)	Melbourne Melbourne Convention & Exhibition Centre	Business event – not open to general public (“All visitors must be over 16 and work in a food or hospitality business”) 350 industry exhibitors	Annual	www.foodserviceaustralia.com.au	
National Restaurant Conference	24 June 2019 (and future occurrences of this event during the period of this Enforceable Undertaking.)	Melbourne Melbourne Convention & Exhibition Centre	Part of the Foodservice Australia 2019 event (see above) “The National Restaurant Conference gives you the opportunity to hear from industry leaders and experts on how to improve your business.”	Annual	www.foodserviceaustralia.com.au/special-events/restaurant-conference	Find Food Australia
Foodpro	5 – 8 July 2020 (and future occurrences of this event during the period of this Enforceable Undertaking.)	Melbourne	Foodpro is the leading event for the food and beverage manufacturing industry, showcasing the latest technology and innovations in food processing, packaging, science and technology.	Every three years	www.foodproexh.com	

			<p>Trade event – not open to general public</p> <p>Includes “free practical education sessions on ... issues affecting businesses in the industry”</p> <p>NB: More focussed on suppliers / producers than front-end.</p>			
Hospitality Expo & Conference	14 - 15 May 2019 (and future occurrences of this event during the period of this Enforceable Undertaking.)	Perth Crown Perth	<p>Hospitality Expo is WA’s largest industry-only trade show proudly showcasing a comprehensive collection of the latest products and services on offer to the industry.</p> <p>Runs in conjunction with the Hospitality Conference “where industry professionals can be inspired by, and network with, the best in the business.”</p>		www.ahawa.asn.au/events/hospitality_expo/visitor_information.php	Australian Hotels Association WA