

Caltex franchisee allegedly falsified records of wage rates paid to overseas workers

7 December 2017

The Fair Work Ombudsman has commenced legal action against a Caltex franchisee in Sydney for allegedly falsifying records of the wage rates it paid to overseas workers.

Facing the Federal Circuit Court is Peter Dagher and his company Aulion Pty Ltd, who operate the Caltex Five Dock service station in inner-western Sydney.

The Fair Work Ombudsman investigated the Five Dock outlet last year as part of a proactive compliance activity involving audits of 15 Caltex service stations nationally.

The activity was conducted in response to concerns about underpayments and other non-compliance issues within Caltex's network of franchisee-operated outlets.

The Fair Work Ombudsman issued Aulion Pty Ltd with Notices to Produce and Mr Dagher and the company provided a range of documents, including contracts of employment time-and-wages records, pay slips and earnings summaries for six employees.

All six of the employees were overseas workers and all but one was an international student.

Concerned that the documents provided did not accurately reflect the wage rates the company had paid to employees, earlier this year the Fair Work Ombudsman issued further Notices to Produce to one bank, a superannuation fund and Aulion's accountant.

The information contained in the documents obtained through the further Notices to Produce was inconsistent with information that had been provided by Mr Dagher and his company.

The Fair Work Ombudsman alleges that the reason for the inconsistency is that Mr Dagher and his company falsified documents and records and unlawfully made use of them by providing them to the Fair Work Ombudsman.

It is alleged that Mr Dagher and his company also contravened laws requiring employers to issue employees with accurate pay slips within one day of pay day.

The absence of accurate time-and-wages records prevented the Fair Work Ombudsman from completing a full audit to determine whether employees at Caltex Five Dock had been paid their full lawful entitlements.

Fair Work Ombudsman Natalie James says legal action has been commenced because allegedly providing false information that frustrates attempts to check whether vulnerable employees have been paid correctly is very serious conduct.

Mr Dagher faces maximum penalties of up to \$3600 per contravention and Aulion Pty Ltd faces penalties of up to \$18,000 per contravention.

A directions hearing is listed in the Federal Circuit Court in Sydney on December 21.

Ms James says employers should be aware that the Fair Work Amendment (Protecting Vulnerable Workers) Act 2017 has now come into effect, increasing the maximum penalties for conduct including deliberate exploitation of workers and false records.

"The maximum penalties available for some serious conduct that occurs today or in the future are now significantly higher than the penalties available to be imposed in matters such as this one, where the allegedly contravening conduct pre-dates the commencement of the Act," she said.

The Fair Work Ombudsman's investigation relating to the Caltex network remains ongoing.

The Fair Work Ombudsman recently published an open letter to international students to encourage them to seek free help from the agency if they experience any issues while working in Australia.

"We are seeking to raise awareness among international students that in line with an agreement between the Fair Work Ombudsman and the Department of Immigration and Border Protection, you can seek our assistance without fear of your

visa being cancelled, even if you've worked more hours than you should have under your visa," Ms James said.

Employers and employees can visit www.fairwork.gov.au or call the Fair Work Infoline on 13 13 94 for free advice and assistance about their rights and obligations in the workplace.

Small business operators can opt to receive priority service and a free interpreter service is available on 13 14 50.

The Fair Work Ombudsman's online tools and resources can assist employers to determine their applicable Award, as well as classification and pay rates, allowances, overtime and penalty rates.

The Pay and Conditions Tool (PACT) provides advice about pay, shift, leave and redundancy entitlements and there are templates for pay slips and time-and-wages records.

The Fair Work Ombudsman recently launched its popular Anonymous Report function in 16 languages other than English, enabling non-English speakers to report potential workplace breaches in their own language, without being identified. The tool can be accessed at www.fairwork.gov.au/inlanguageanonymousreport (<http://www.fairwork.gov.au/inlanguageanonymousreport>).

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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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.

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Small Business Helpline – 13 13 94



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Issues in the workplace

Know someone who isn't getting the right pay? Heard of a business or organisation that isn't doing the right thing? We can help you resolve the issue or you can share your information with us anonymously.

Option 1: Get help resolving issues in the workplace

Do you want advice on how to resolve an issue in your workplace?

Follow our step-by-step [Guide to resolving workplace disputes \(http://www.fairwork.gov.au/language-help/english/issues-in-the-workplace/resolving-workplace-disputes\)](http://www.fairwork.gov.au/language-help/english/issues-in-the-workplace/resolving-workplace-disputes). If you require an interpreter, you can call the Translating and Interpreting Service (TIS) on 131 450. Tell the operator the language you speak and ask them to call us on 131 394. You can also call TIS from outside Australia on +61 3 9268 8332.

You are entitled to minimum pay and conditions at work, even if you've breached your visa. We've made an agreement with the Department of Immigration and Border Protection (DIBP) that a person's temporary visa will not be cancelled if they come and ask us for help, as long as they:

- have an entitlement to work as part of their visa
- believe they have been exploited at work
- have reported their working conditions to us
- are assisting us in an investigation.

This applies as long as:

- they follow their visa conditions in the future
- there is no other reasons why their visa would be cancelled (such as national security, character, health or fraud grounds).

Read more about workplace rights for all visa holders working in Australian on the [DIBP website \(http://www.border.gov.au/Trav/Work/Work/workplace-rights\)](http://www.border.gov.au/Trav/Work/Work/workplace-rights) .

Option 2: Report a workplace concern anonymously

If you're worried someone isn't following workplace laws but you don't want to get involved, you can report the issue to us anonymously.

We won't contact you but the information you give us:

- will help us plan our current and future activities
- may be shared with other Commonwealth, State or Territory bodies.

[Make an anonymous report now. \(http://www.fairwork.gov.au/how-we-will-help/how-we-help-you/anonymous-report/form\)](http://www.fairwork.gov.au/how-we-will-help/how-we-help-you/anonymous-report/form)

What to do next

- Use the Record My hours app (Record my hours app (<http://www.fairwork.gov.au/how-we-will-help/how-we-help-you/record-my-hours-app>)) to track your time at work.

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