

Brisbane call centre operators fined \$214,500 over sham contracting and underpaid staff

A Brisbane company and its director have been fined a total of \$214,500 over sham contracting and underpayments affecting more than 100 call centre workers.

Contracting Plus Pty Ltd, which formerly operated a Brisbane CBD call centre selling electricity services for its clients, has been fined \$178,750.

The company manager and sole director, Randall David Rowe, has been fined a further \$35,750.

The penalties were imposed in the Federal Magistrates Court in Brisbane following a prosecution by the Fair Work Ombudsman (FWO).

Federal Magistrate Michael Burnett found that 116 telemarketers had been underpaid a total of \$46,000 between 2006 and 2008 when they did not receive the minimum hourly rate.

The Court heard that Rowe and Contracting Plus breached sham contracting provisions of workplace laws by classifying the workers as 'independent contractors' when they were actually 'employees'.

Federal Magistrate Burnett ordered that part of the fines go towards reimbursing the underpaid workers, some of whom were under 21.

Contracting Plus also failed to keep proper employment records and issue pay slips in line with workplace laws.

FWO Executive Director Michael Campbell said that the substantial penalty imposed by the Court sent a very clear message to employers who seek to avoid their lawful obligations through sham contracting that they will be pay a high price if they are discovered.

"More than \$150,000 of the fines that have been imposed are for sham contracting-related breaches," Mr Campbell said.

"Sham contracting is a serious matter because if workers are incorrectly classified as independent contractors, they can miss out on fundamental entitlements such as minimum pay rates, penalty rates and annual leave.

"To purposely deny vulnerable and low-skilled workers these important employment entitlements by disguising them as contractors is particularly reprehensible. As such, it is important that my Agency mark its disapproval of such behaviour and deter others from doing the same."

If members have are considering contracting services out the THA urgesmbrs to seek expert advice before acting to ensure any proposed arrangements are legally compliant. The THA's Industria I Officer Ben Walker is happy to have an initial chat with individual members on these matters.