



EMPLOYMENT WATCHDOG CASTS ITS EYE ON THE HOSPITALITY INDUSTRY

Underpayments uncovered at Calombaris' restaurants

No doubt you will have read about the almost \$8 million worth of back payments to be paid by MAdE Establishment Pty Ltd's group of companies (**MAdE**), founded by TV Chef, George Calombaris.

In a recent Media Release[1] referring to the underpayments uncovered at MAdE, Fair Work Ombudsman (**FWO**) Sandra Parker has urged businesses in the Fast Food, Restaurant and Café sector to ensure that they are paying their staff correctly. Ms Parker noted that "MAdE's massive back-payment bill should serve as a warning to all employers that if they don't get workplace compliance right from the beginning, they can spend years cleaning up the mess."[2]

In July 2019, MAdE entered into a Court Enforced Undertaking (Undertaking) with the FWO after self reporting that it had underpaid employees at its Press Club and Gazi restaurants in the Melbourne CBD, and Hellenic Republic restaurants in Kew, Williamstown and Brunswick. During its investigations at MAdE, the FWO also uncovered underpayments at Jimmy Grants restaurants (which shares common shareholders and directors with MAdE).

The FWO Inspectors discovered that the underpayments were the result of MAdE failing to conduct reconciliations of annualised salary arrangements against, among other things, overtime and penalty rate hours worked by employees. Inspectors also found that the MAdE group of companies and some Jimmy Grants sites did not pay staff at the correct classification level under the applicable modern award.

Calombaris set to be the face of an 'education campaign' in the hospitality industry

As part of the Undertaking, Calombaris is required to complete speaking engagements to educate the restaurant industry on the importance of workplace compliance.

Additionally MAdE:

- is required to back pay \$7,832,953 to 515 current or former employees of Press Club, Gazi and Hellenic Republic for work performed between 2011 and 2017;
- will make a \$200,000 contrition payment to the Commonwealth Government's Consolidated Revenue Fund; and
- must fund external auditors to check pay and conditions for workers across the entire group every year until the Undertaking expires in 2022.

Jimmy Grants is also required to back pay \$16,371 to nine employees.

In a Public Statement on its website, MAdE has expressed its “sincere regret” and “apologised for the conduct that resulted in the contraventions”.[3]

The underpayments uncovered at MAdE follow a series of other underpayment news stories in recent times at celebrity backed restaurants including, Neil Perry’s Rockpool Dining Group, French chef Guillaume Brahimi’s restaurant businesses, and Heston Blumenthal’s Australian restaurant, Dinner by Heston.

Don't become a news story!

It is imperative that your business is aware of its legal obligations with respect to employee entitlements and record keeping.

To this end, Peer Legal recommends:

- reviewing your businesses’ record keeping to ensure it is compliant with the detailed requirements imposed under workplace legislation such as the Fair Work Act 2009 (Cth) (FW Act), and workplace instruments such as modern awards and enterprise agreements;
- reviewing your employees’ salaries to ensure your employees are being paid in accordance with the FW Act and any applicable workplace instruments;
- ensuring payroll and human resources staff are appropriately trained to manage your employment records;

- performing annual reconciliations of wages against the hours worked by an employee, where that employee is on an annualised salary. It is a common misconception that if an employee is paid an annual salary they are then not entitled to be paid overtime and penalty rates. An employer must compare what an employee’s ordinary wages would have been under the relevant award with the actual payment i.e., annualised salary received by the employee. If the employee would have received more by being paid pursuant to the award then the employer must pay the employee the difference; and
- not turning a ‘blind eye’ to poor record keeping practices or worse, where non-compliance is detected. As alluded to by Ms Parker, not getting workplace compliance right at the outset or correcting it and allowing it to fester will be costly and significant.

Peer Legal is experienced in navigating the complexities surrounding workplace law compliance. We can assist your business by performing an audit of your wages and record keeping practices in order to identify shortfalls and/or compliance risks.

Contact Peer Legal for more information about whether your employment records and practices comply with the FW Act and other applicable workplace instruments.

[1] <https://www.fairwork.gov.au/about-us/news-and-media-releases/2019-media-releases/july-2019/20190718-made-establishment-eu-media-release>

[2] Ibid.

[3] https://assets.ctfassets.net/vqs1ymc4f0zu/7BNjGOwdgY7SCnZzD4AOTE/147eed17bf254f2c9f342800f89e99da/Made_Public_Apology.pdf



For more information contact:

Natasha Horvat
Managing Associate
Natasha.Horvat@peerlegal.com.au

Julian Gillard
Senior Associate
julian@peerlegal.com.au

Phone: + 61 3 9067 6800 | www.peerlegal.com.au



Peer Legal
Level 2, 287 Collins Street
Melbourne VIC 3000