

IN THE FAIR WORK COMMISSION

AM2017/40 Penalty Rates - Hair and Beauty Industry Award 2010

WITNESS STATEMENT OF ELKE RICHTER

I, Elke Richter of [REDACTED] (WA) do solemnly and sincerely declare and state the following:

1. I run the following salons that are owned by my family's business (**Salons**) :

Salon	Commenced operation
Forever Beautiful at Advanced Beauty Concepts and Medispa Forever Beautiful (Cottesloe WA	2008
Advanced Beauty Concepts and Medispa Advanced Beauty (Mosman Park, WA	2005
<u>Skin Inspired (Leederville, WA)</u>	2015

2. I am responsible for overseeing the running of the Salons. This includes, amongst other responsibilities, the recruitment of employees and overseeing the preparation of rosters.

The Salons and their Employees

Forever Beautiful

3. Forever Beautiful offers a broad range of beauty services including:
- a) Clinical treatments such as microdermabrasion, peels, Omnilux, IPL hair removal & skin rejuvenation;
 - b) Facials;
 - c) Relaxation treatments including body exfoliation and massage;
 - d) Eye treatments such as eyebrow tinting, eyelash tinting and eyelash extensions;
 - e) Manicures, pedicures and other hands and feet treatments;
 - f) Waxing;

g) Tanning; and

h) Make-up, including bridal make-up.

4. As at 1 March 2018, Forever Beautiful's opening hours are as follows:

Day	Opening Hours
Monday	9:00am - 6:00pm
Tuesday	9:00am - 7:00pm
Wednesday	9:00am - 7:00pm
Thursday	9:00am - 8:00pm
Friday	9:00am - 6:00pm
Saturday	8:00am - 4:00pm
Sunday	Closed
Public holidays	Closed

5. As at 1 March 2018, Forever Beautiful employs five casual therapists and two casual receptionists. It is my understanding that those employees are covered by the *Hair and Beauty Industry Award (Award)*.

Advanced Beauty

6. Advanced Beauty offers a range of treatments that are similar to those offered at Forever Beautiful.

7. As at 1 March 2018, Advanced Beauty's opening hours are as follows:

Day	Opening Hours
Monday	9:00am - 5:30pm
Tuesday	9:00am - 5.30pm
Wednesday	9:00am - 5:30pm
Thursday	9:00am - 8:00pm
Friday	9:00am - 5:30pm
Saturday	8:30am - 3:00
Sunday	Closed
Public Holidays	Closed

8. As at 1 March 2018, Advanced Beauty employs five casual therapists, one casual receptionist and one permanent part-time receptionist. It is my understanding that those employees are covered by the Award.

Skin Inspired

9. Skin Inspired is primarily a distribution agency for Inskincosmedics. It is a wholesale business that sells skin care, beauty products and equipment to beauty salons and medical practices. The employees who perform work associated with this distribution function are employed as Business Development Managers. They are not hairdressers or beauty therapists and it is my understanding that they are not covered by the Award.
10. In the same location, Skin Inspired also runs a small beauty salon.
11. As at 1 March 2018, the opening hours of the salon at Skin Inspired are:

Day	Opening Hours
Thursday	9:00am - 7.00pm
Saturday	9:00am -3:00om
Sunday - Wednesday and Frida	Closed
Public holidays	Closed

12. As at 1 March 2018, there is 1 casual therapist employed by Advanced Beauty who works some of her shifts at Advanced Beauty and some of her shifts at the Skin Inspired salon. It is my understanding that she is covered by the Award.

The Salons' Operations

13. The nature of the work performed by the Salons' employees is client-focussed and therefore labour intensive. An employee will generally be focussed on only one client at a time. Whilst they are servicing that client, they are typically unable to service any other client or undertake othertasks.
14. The cost of labour represented 42% of Forever Beautiful's revenue during the 2016/2017 financial year. It represented 49% of Advanced Beauty's revenue during the 2016/2017 financial year. The Salons also incur various other operational costs such as rent, electricity and water.
15. The Salons face a lot of competition because there are several other beauty salons nearby providing the same or similar services as them. The services provided by the Salons are not, as such, unique.

16. The pricing structure of the services offered by the Salons is influenced significantly by the prices charged by the Salons' competitors.
17. I have observed that in respect of some of the services offered by the Salons, its prices are already at the top of the range of prices charged by their competitors. This is because they provide a premium quality service and they are targeting the portion of the market that wants high quality services. However, I do not consider that the Salons prices can be increased further at this stage for the reasons explained at paragraphs 15 - 19 of this statement.
18. I have observed that many customers are very price sensitive. When the Salon has increased prices for its services in the past, I have received negative feedback and complaints from customers. Employees of the Salons have also received negative feedback.
19. Because of this feedback, the Salons have not increased their prices since 2016 for certain services that are widely available at other salons and which bring a high volume of customers into the Salons, such as waxing.
- ~~20. I have previously employed casual employees who wanted to work only on the weekends because they had study commitments or caring responsibilities.~~
21. Typically, when recruiting for a new beauty therapist, the Salons will advertise for a "Beauty / Dermal Therapist". Depending upon the time of year that the advertisement is published, the Salons receive up to 50 applications for such a role.
22. Many trainees have considerable difficulty finding a position with a salon. I have previously engaged trainees and consider that they require intense supervision and on-the-job training, which is very time consuming and labour intensive.

Hair and Beauty Australia's Claim

23. I understand that Hair and Beauty Australia has proposed a variation to the Award to reduce Sunday and public holiday penalty rates as follows:

	Current Rate	Proposed Rate
Sunday	200% of hourly rate	150% of hourly rate
Public holiday	250% of hourly rate	225% of hourly rate

24. I understand that the proposed change would be relevant to the Salons' Award-covered full-time, part-time and casual employees.

25. The majority of the Salons' Award-covered employees are paid in accordance with the Award.

26. Some of the Salons' Award-covered employees are paid above the Award. In certain cases, this is because when they were first employed, they were being paid above the Award by their ex-employer. In my experience, to attract such employees, it is necessary to agree to pay at least as much as their previous employer if not more.

Trading on Sundays

27. Forever Beautiful is located on a street front amongst a strip of shops, restaurants and cafes, many of which are open on Sundays. As a result, there is considerable foot traffic in the area on Sundays.

28. Advanced Beauty is the busiest of the Salons. It is located in a shopping centre. That shopping centre is currently undergoing refurbishments and as a result, Advanced Beauty will be relocated to another part of the shopping centre, near eateries and food outlets, which will be open on weekends. This relocation is expected to occur in October 2018.

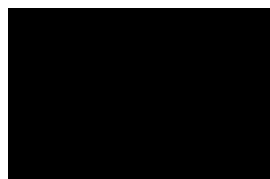
29. I am aware that some of the Salons' competitors who operate nearby are open on Sundays. ~~I am concerned that, because they provide services that are similar to the Salons, customers take their business there instead of coming to the Salons on alternate days when they are open.~~

30. The Salons rely on repeat business from their customers. Once a customer goes to a competitor, in my experience it is difficult to regain their business.
31. I consider that there is sufficient demand for Forever Beautiful and Advanced Beauty's services for those salons to open on Sundays. Based on my experience, I consider that the foot traffic near those salons would generate walk in clientele. Further, the Salons' often receive queries from their customers as to whether they are open on Sundays.
32. Despite this, I am currently deterred from opening Forever Beautiful and Advanced Beauty on Sundays because of the penalty rates payable under the Award.
33. Forever Beautiful opens on the three Sundays prior to Christmas. This is because of the high demand for its services leading up the festive season. It also opens partly out of a sense of obligation to its customers, many of whom expect the salon's services to be available.
34. During that period, Forever Beautiful's employees are generally rostered so that they are not required to work on both Saturday and Sunday during any of those three weekends. I have not received any complaints from employees about having to work on a Sunday.
35. A 10% surcharge is charged on all services offered by Forever Beautiful on those Sundays, however that does not completely offset the higher labour costs that the salon faces on Sundays because of the penalty rates. Some customers have complained about the surcharge or have queried why they have to pay it.
36. I have observed that customers are very busy during December with a range of personal and professional commitments and Forever Beautiful's services are in high demand on Sundays as a result. Also, customers' need for Forever Beautiful's services is often time sensitive (for example, they want a certain treatment in time for a Christmas party that they are attending or before they leave for a holiday). These circumstances do not, however, apply all year round.

37. Accordingly, I consider that I cannot implement a surcharge on Sundays throughout the year if the Salons opened on Sundays because I am concerned that customers would be very dissatisfied and may take their business elsewhere as a result.
38. Further, some of the services provided by the Salons are sold as packages, which involve repeat visits by the customer to receive a series of treatments. The price for that series of treatments is quoted and sometimes paid in full when they first start the treatment. If a 10% surcharge was implemented on Sundays, it would require the relevant Salon to adjust that quote if the customer chooses to access one or more of the treatments on a Sunday. Based on the feedback I have received about price increases to the Salons' services and the 10% surcharge implemented before Christmas, I expect that many customers would be dissatisfied with such an arrangement.

The Potential Impact of a Reduction to the Sunday Penalty Rate

39. If the penalty rate payable on Sundays is reduced to 150%, I would open Advanced Beauty and Forever Beautiful on Sundays. I would initially do this cautiously, by opening for half the day and rostering a small number of employees. If the salons had sufficient clientele on Sundays, I would then consider extending the opening hours and rostering additional staff, including by engaging new employees.
40. The current 200% penalty rate is too high to allow me to take the risk of opening on a Sunday but if the penalty rate was 150%, I would be willing to take that risk and allow the business to develop on Sundays over time, even if initially the salons were not profitable on Sundays. The current penalty rate of 200%, however, deters me from taking that risk because of the potential financial implications if it does not succeed.



Elke Richter
Date: