

**IN THE EMPLOYMENT COURT OF NEW ZEALAND
AUCKLAND**

**I TE KŌTI TAKE MAHI O AOTEAROA
TĀMAKI MAKĀURAU**

**[2024] NZEmpC 107
EMPC 164/2024**

IN THE MATTER OF a without notice application for freezing
and ancillary orders

AND IN THE MATTER OF a further application to vary freezing
orders

BETWEEN PACIFIC INSULATION LIMITED
Applicant

AND RODERIGO JOSE LAGERA
First Respondent

AND RJ & AL CONTRACTING LIMITED
(formerly PACIFIC INSULATION
(NORTH ISLAND) LIMITED)
Second Respondent

Hearing: On the papers

Appearances: S Caradus and S Caughey, counsel for applicant
P Cornegé, counsel for first and second respondents

Judgment: 17 June 2024

**INTERLOCUTORY JUDGMENT (NO 2) OF JUDGE K G SMITH
(Further application to vary freezing orders)**

[1] On 17 May 2024, Judge Holden granted the applicant's without notice application for freezing and ancillary orders against the respondents.¹ That decision was followed by a reasons judgment on 21 May 2024.²

¹ *Pacific Insulation Ltd v Lagera* [2024] NZEmpC 82.

² *Pacific Insulation Ltd v Lagera* [2024] NZEmpC 85.

[2] On 27 May 2024, Judge Holden varied the freezing orders that had been in effect from 17 May 2024.³ The judgment recorded that the freezing orders did not prohibit the respondents from using assets for the purposes of paying ordinary living expenses, paying legal expenses, or disposing of assets in the ordinary course of business and in good faith.⁴

[3] However, one of the reasons for seeking to vary the orders by consent in May was that the first respondent's bank had advised that its systems did not allow bespoke payment policies to apply to individual customers. The parties had therefore agreed that one of the first respondent's accounts, his "Go" account, could be released and hold \$10,000 for his permitted expenses.

[4] After that alteration to the orders previously made, the Court dealt with variations to the earlier timetabling orders.⁵ Seven variations were recorded and the parties were provided with leave to seek further directions on reasonable notice.

[5] By joint memorandum dated 10 June 2024 the parties sought further variations to the freezing orders, by consent. They are:

- (a) That \$5,000 be transferred into the first respondent's ANZ "Eric's Go" account to allow him to meet expenses permitted by the freezing orders.
- (b) The phrase "potential customers" of the applicant, under paragraph 10.1 of the ancillary orders, is deemed to include any person that the applicant could undertake services for in its normal course of business.
- (c) Paragraph 10.2 of the ancillary orders is amended to include emails sent by eric@pacificinsulationni.com.
- (d) The respondents are to provide:

³ *Pacific Insulation Ltd v Lagera* [2024] NZEmpC 90.

⁴ At [4].

⁵ At [7].

- (i) all documents attached to or referred to in the email correspondence discovered by them;
 - (ii) all correspondence sent and received by the email address eric@pacificinsulationni.com that fall under paragraphs 10.1 and 10.2 of the ancillary orders, and all emails relating to the discovered correspondence; and
 - (iii) all invoices sent by the first and second respondents while the first respondent was employed by the applicant, which fall under paragraph 10.1 of the ancillary orders.
- (e) The respondents are to file and serve an updated affidavit listing the documents described in paragraphs [9] and [10] of the freezing orders and the documents referred to in sub-paragraph [5](d) above by **5 pm on Friday, 21 June 2024**.
- (f) The applicant is to file its statement of problem in the Employment Relations Authority by **5 pm on Monday, 1 July 2024**.
- (g) The review hearing set down for 9.30 am on 20 June 2024 is to be vacated and appearances excused.
- (h) The matter is to be set down for the next available hearing date after 1 July 2024, on a date to be fixed by the Registrar.
- (i) The freezing orders are to continue until the hearing date fixed by the Registrar.
- (j) Leave is reserved for the parties to seek further directions or orders on reasonable notice.

[6] Having considered the memorandum of counsel for the parties, I am satisfied that those orders are appropriate. Orders are made accordingly.

[7] The non-publication orders previously made by the Court are continued.

[8] Costs are reserved.

K G Smith
Judge

Judgment signed at 11.45 am on 17 June 2024