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Apex General Ltd v Beckett (Auckland) [2007] NZERA 121 (20 April 2007)

Determination Number: AA 115/07 File Number: 5083113

Under the [Employment Relations Act 2000](#)

BEFORE THE EMPLOYMENT RELATIONS AUTHORITY AUCKLAND OFFICE

BETWEEN Apex General Ltd
AND John Colin Robert Beckett
REPRESENTATIVES Paul Wickes and Charlotte Parkhill

Sarah-Jane Neville
MEMBER OF AUTHORITY Y S Oldfield
INVESTIGATION MEETING 20 April 2007
DATE OF DETERMINATION 20 April 2007

ORDER OF AUTHORITY BY CONSENT

[1] This morning I convened a meeting with the parties to investigate the enforceability of a restraint of trade provision. During a break in the meeting the representatives advised that their clients had agreed terms on which to resolve the matter. They advised that they wished me to record their agreement in the form of an order by consent. I therefore dispose of the matter by that means. By agreement of the parties, clause 12 of the respondent's employment agreement is modified as set out here:

- i. The restraint is modified so that clauses 12.3 (b), (c), (d), (e), and (f) are deleted.
 - ii. Clause 12.3 (a) is modified to provide "*contact or attempt to contact any client of the employer for the purposes of soliciting that client.*"
 - iii. For the sake of clarity the solicitation of clients does not include the situation of a client directly or indirectly contacting the employee requesting a quotation or tender from the employee.
 - iv. However effective 20 April 2007 until 15 December 2007, the employee when contacted directly or indirectly by a client seeking a quote or tender from the employee shall within 1 day of being aware of the request notify Jill McMillan or Alan Jutsum of Apex General Ltd of the request.
- The above obligation shall not apply where the employee is approached and appointed without first being asked to quote or tender.
- v. The employee is also restrained for a period of 12 months from 15 December 2006 from soliciting the employment of any current employee of Apex General Ltd.
 - vi. Costs shall lie where they fall.

Y S Oldfield
Member of Employment Relations Authority