

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

[2013] NZERA Auckland 464  
5431640

BETWEEN                      JAYKUMAR TUSHARBHAI  
   PATEL and MITULKUMAR  
   VJAYBHAI PATEL  
   Applicants

A N D                              HYGIENE FOUNDATION  
   LIMITED  
   Respondent

Member of Authority:        T G Tetitaha

Representatives:              Applicants in person  
   No appearance for Respondent

Investigation Meeting:        9 October 2013 by telephone

Date of Determination:        9 October 2013

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**DETERMINATION OF THE AUTHORITY**

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**A.    The application for recovery of training fees against the Hygiene Foundation Limited is dismissed. There is no order for costs**

**Employment relationship problem**

[1]    Jaykumar Tusharbhahi Patel and Mitulkumar Vjaybhahi Patel were offered jobs as hygiene consultants by the Hygiene Foundation Limited. Prior to commencing their employment, Messrs Patel had to complete one month's training at the Hygiene College Limited.

[2]    Mr Jaykumar Patel paid \$15,000 to Hygiene College Limited for training on 29 and 30 April 2013. Mr Mitulkumar Patel paid \$17,400 on 12 April and 20 June 2013. The training never occurred. They are now aware the Hygiene Foundation Limited is facing bankruptcy and liquidation proceedings at the end of October 2013.

Messrs Patel seek urgent orders for repayment of their fees from the Hygiene Foundation Limited.

### **Issues**

[3] There is a single issue for determination:

- (a) Was there an employment relationship between Messers Patel and the Hygiene Foundation Limited?

### **Was there an employment relationship between Messers Patel and the Hygiene Foundation Limited?**

[4] Each of Messer Patel's individual employment agreements name the Hygiene Foundation Limited as their employer.

[5] Clause 2.1 of Messer Patel's individual employment agreements state *the employment shall commence upon the employee completing the Hygiene College training programme.*

[6] At a teleconference on 9 October 2013, both Messrs Patel confirmed they had not received or completed any training with the Hygiene College Limited. The employment relationship shall commence upon completion of the training. Accordingly, there is no employment relationship problem which the Authority has jurisdiction over until the employment relationship commences.

[7] It is with some sympathy the application for recovery of training fees against the Hygiene Foundation Limited is dismissed. There shall be no order for costs.

[8] A search of the Companies Office records show the Hygiene Foundation Limited is a separate entity from the Investment Foundation of New Zealand Limited formerly known as Hygiene College Limited. Messrs Patel may bring a civil action against the Investment Foundation of New Zealand Limited formerly known as Hygiene College Limited for recovery of their fees. A copy of this determination and the certificate of incorporation for Investment Foundation of New Zealand Limited formerly known as Hygiene College Limited shall be provided to them.

**T G Tetitaha**  
**Member of the Employment Relations Authority**