

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

AA 258A /09  
5161313

BETWEEN                      LISA LING ZHANG  
   Applicant  
  
AND                                HOLLYWOOD BAKERY  
   (HOLDINGS) LIMITED  
   Respondent

Member of Authority:        Robin Arthur  
  
Representatives:              Qiang Li for Applicant  
   David Liu for Respondent  
  
Investigation:                 On the papers  
  
Determination:                12 August 2009

---

**DETERMINATION OF THE AUTHORITY**

---

[1] By memorandum of counsel lodged in the Authority on 29 July 2009 Hollywood Bakery (Holdings) Limited seeks orders in respect of an alleged breach of a non-publication order made by the Authority. The company also seeks orders requiring both Ms Zhang and her representative, Qiang Li, to surrender devices containing recordings that one or both of them secretly made during a mediation meeting, an Authority hearing and of conversations with company employees.

[2] A copy of the company's memorandum was served electronically on Mr Li who has provided no reply to the applications made.

**Non-publication issue**

[3] During an investigation meeting on 21 July 2009 an order for non-publication was made on a document provided by the company to IRD. The order was recorded

in Authority determination AA 258/09 (31 July 2009).

[4] In a memorandum dated 25 July 2009, received by the Authority on 28 July 2008, Mr Li refers to having shown that document to “*the lawyer of our organization*”. The organisation is the so-called Association of China for Democracy and Human Rights, of which Mr Li describes himself as the “*responsible officer*”.

[5] The company submits Mr Li’s action was a breach of the non-publication order.

[6] It notes that during the investigation meeting the Authority member – speaking through a translator of English to Mandarin – told Mr Li “*in no uncertain terms that he must not disclose or publish the document to a third party*”.

[7] I confirm that Mr Li was told that the non-publication order meant that the document could not be shown to or its contents spoken about to any other person apart from Ms Zhang or her representative. While Mr Li, by his memorandum of 25 July, confirms he has since shown the document to a lawyer, I am not satisfied on the basis of that information alone that a breach of the order has occurred.

[8] If the document was shown to that lawyer in the course of providing advice to or for Ms Zhang, I consider this was within the scope of the restrictions set by the order. I accord Mr Li the benefit of the doubt that this was the case.

[9] Accordingly no further orders are required at this stage. I emphasise however that the non-publication order remains in place. Mr Li and Ms Zhang would be in breach of that order if they were to show or speak about the contents of the document to anyone other than a legal representative for the purpose of advice or proceedings.

## **Recordings**

[10] Ms Zhang confirmed in the Authority investigation of 21 July that she had made secret recordings of conversations with her manager or supervisors. Mr Li advised during the meeting that he had recordings of those conversations made on 22 April, 29 April and 30 April 2009. He also admitted that he was recording the

Authority investigation meeting although he had neither sought permission to do so nor told anyone that he was doing so. The company has since alleged that Mr Li also secretly recorded a mediation meeting.

[11] While I acknowledge the good faith and privacy concerns raised by the company, there are presently no proceedings before me for which I could require the production of the recordings as sought by the company. The application for such orders at this time is declined.

### **Costs**

[12] The matter of costs in these proceedings is yet to be determined. The company lodged a memorandum as to costs on 3 August 2009. Ms Zhang had 14 days from that date to lodge a reply memorandum before the Authority determines costs.

Robin Arthur  
Member of the Employment Relations Authority