

**NOTE: This determination
contains an order prohibiting
publication of certain
information**

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI
TĀMAKI MAKAURAU ROHE**

[2024] NZERA 753
3277679

BETWEEN	NIAN LIU Applicant
AND	CONSTRUST LIMITED First Respondent
AND	YUHANG (DEREK) DAI Second Respondent

Member of Authority:	Rachel Larmer
Representatives:	May Moncur, advocate for the Applicant Sonny Lam, counsel for the Respondents
Investigation Meeting:	19, 20 and 21 November 2024 in Auckland and by AVL
Other information:	13 and 17 December 2024 from the Respondents 16 December 2024 from the Applicant
Date of Determination:	17 December 2024

CONSENT DETERMINATION OF THE AUTHORITY

Non-publication order

[1] Paragraph [9] of this determination contains a non-publication order.

Employment relationship problem

[2] The applicant, Mr Nian Liu, made a number of claims against the first respondent Construst Limited (Construst) and the second respondent Mr Yuhang (Derek) Dai, who at the material time was Construst's sole director.

The Authority's investigation

[3] The Authority investigated Mr Liu's claims during an investigation meeting that was held on 19, 20 and 21 November 2024. Mr Liu lives in China, so he attended the investigation meeting in November 2024 by AVL. The Authority was assisted by a Mandarin interpreter.

[4] A further one day of investigation meeting time had been set down for 18 December 2024. That occurred because new witnesses, whose evidence had only come to light during the November investigation meeting, had been witness summonsed to attend the Authority's investigation meeting.

[5] The parties have advised the Authority that the investigation meeting on 18 December 2024 should be vacated, because they had now settled all of their issues by agreement. The parties also asked the Authority to issue a consent determination to ensure their settlement was final, binding and enforceable.

[6] The terms and conditions of the parties' settlement are recorded in a Joint Memorandum that was signed by the parties' representatives on behalf of all parties to this matter, and which was lodged with the Authority on 17 December 2024 ("the Settlement").

Orders

[7] By consent, the terms recorded in the Settlement now become orders of the Authority. As orders of the Authority, the terms of the Settlement are therefore final, binding and enforceable.

[8] Failure to comply with the terms of Settlement and/or this consent determination may be addressed by way of a compliance order application, but no other action may be taken by any party regarding the employment relationship and/or any other issues Mr Liu said he had with Construst Limited and vice versa.

Non-publication order

[9] The parties have agreed that the terms of their settlement are to remain confidential. For the purposes of preserving that confidentiality, the Authority has made an order pursuant clause 10 of the Second Schedule of the Employment Relations Act 2000 prohibiting the publication of the terms of settlement.

[10] The original signed Joint Memorandum is therefore not attached to this determination, but will instead be held in the Authority's case management system.

Rachel Larmer
Member of the Employment Relations Authority