IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND

I TE RATONGA AHUMANA TAIMAHI
TĀMAKI MAKAURAU ROHE

[2026] NZERA 164
3241579

	BETWEEN	JOHN PIO Applicant
	AND	STRAUTMANN HOPKINS LIMITED First Respondent
		HOPKINS FARMING GROUP LIMITED Proposed Second Respondent

Member of Authority:	Marija Urlich
Representatives:	Erin Burke, counsel for the Applicant Paul McBride, counsel for the First Respondent Peter McCarthy, director of the Second Respondent
Investigation Meeting:	11 – 12 November 2025, in Hamilton
Submissions and information received:	27 November and 18 December 2025, from the Applicant 4 December 2025, First Respondent 3 December 2025, Second Respondent
Determination:	19 March 2026

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] John Pio was employed by Strautmann Hopkins Limited (SHL) from 1 March 2020 as a regional sales manager until his employment ended by way of redundancy on 26 April 2023. He says his dismissal was unjustified for which he seeks compensatory remedies. He also seeks a finding that SHL engaged in misleading and deceptive conduct in breach of the statutory obligation of good faith for which he says penalties

should be ordered. Commission and holiday pay arrears are also part of this employment relationship problem.

[2] Against Hopkins Farming Group Limited (HFG) Mr Pio applies for penalties for acting to delay or obstruct the Authority's process by actions including steps to remove SHL from the companies register.

[3] SHL says Mr Pio's dismissal for redundancy was substantively and procedurally fair and there are no grounds for an award of penalties.

[4] HFG opposes being a party to this matter. It says it is not a party to the employment relationship and denies acting in a manner to obstruct the Authority's investigation.

The Authority's investigation

[5] This matter has been before the Authority for some time. Three scheduled investigation meetings have been adjourned and a preliminary matter determined.[1]

[6] The Authority has received evidence from Mr Pio, Peter McCarthy a director of HFG, Max Sturt a former director of SHL and Ian Hopkins, a director and shareholder of Strautmann NZ Limited and Strautmann Hopkins (20023) Limited

[7] As permitted by s 174E of the Employment Relations Act 2000 (the Act) this determination has stated findings of fact and law, expressed conclusions on issues necessary to dispose of the matter and specified orders made. It has not recorded all evidence and submissions received. In determining this matter, the Authority has carefully considered all the material before it, including all information received from the parties and the submissions of their representatives.

Issues

[8] The issues identified for investigation and determination are whether:

i. Was Mr Pio unjustifiably dismissed for redundancy?

---

[1] *John Pio v Strautmann Hopkins Limited & Hopkins Farming Group Limited* [2025] NZERA 261.

ii. If so, is he entitled to remedies of:

a. Lost remuneration;

b. Compensation for hurt and humiliation;

iii. Arrears of commissions and holiday pay due and owing;

iv. SHL engaged in misleading and deceptive conduct in breach of good faith obligations and order a penalty;

v. HFG has acted to delay or obstruct the Authority process and order a penalty s 134A; and

vi. Is either party entitled to an award of costs?

Relevant law

The test for justification

[9] In considering a dismissal for redundancy the Authority must apply the test for justification set out at section 103A of the Act. The Authority must assess the reasons given to the employee by the employer including the business reasons and decide, on an objective basis, whether the employer's actions were reasonable. If an employer can show the redundancy was genuine and that notice and consultation requirements have been met, the s 103A test may well be satisfied:[2]

> [80] We consider that the appropriate approach to statutory interpretation in this case is the orthodox approach beginning with the words of the section and considering them in light of the purpose of the statute. When the words of s 103A are considered in light of the purposes of the statute set out in s 3 and the overarching duty of good faith provided for in s 4, we do not consider that the reference in s 103A to a 'fair and reasonable employer' can properly be read down to mean 'a genuine employer', in the sense used in *Hale* (an employer not using redundancy as a pretext for dismissing a disliked employee).
>
> [81] Given the explicit requirements for disclosure of information and consultation that now apply in redundancy situations, the reality is that the Employment Court will have before it the information provided by the employer to the employee justifying the redundancy. Whatever may have been the case in the pre-s 103A environment, the clear words of s

[2] *Grace Team Accounting Ltd v Brake* [2014] NZCA 541, [2015] 2 NZLR 494 at [85].

> 103A now require the Employment Court to determine on an objective basis whether the employer's actions and how it acted were what a reasonable employer would have done. That test has little in common with this Court's pronouncements in *Hale* and *Aoraki*.
>
> …
>
> [85] Having said that, however, we do not dismiss the importance of the Employment Court addressing the genuineness of a redundancy decision. If the decision to make an employee redundant is shown not to be genuine (where genuine means the decision is based on business requirements and not used as a pretext for dismissing a disliked employee), it is hard to see how it could be found to be what a fair and reasonable employer would or could do. The converse does not necessarily apply. But, if an employer can show the redundancy is genuine and that the notice and consultation requirements of s 4 of the Act have been duly complied with, that could be expected to go a long way towards satisfying the s 103A test. In the end the focus of the Employment Court has to be on the objective standard of a fair and reasonable employer, so the subjective findings about what the particular employer has done in any case still have to be measured against the Employment Court's assessment of what a fair and reasonable employer would (or, now, could) have done in the circumstances.[3]

[10] In reaching its decision on the scope of the application of s103A of the Act to redundancy dismissals, the Court of Appeal placed emphasis on the Act's legislative context. In particular, the Court referred to the strengthening in 2004 of the provisions relating to the duty of good faith and to the requirement in the Act's objects of "acknowledging and addressing the inherent inequality of power in employment relationships".

[11] A fair and reasonable employer is expected to comply with its statutory obligations which include the good faith obligations. Failure by an employer to comply with these obligations may fundamentally undermine its ability to justify a dismissal or other action "because a fair and reasonable employer will comply with the law".[4]

[12] In addition, a fair and reasonable employer is expected to comply with its statutory obligations which include the good faith obligations which include at s 4(1A)(b):

> The duty of good faith in subsection (1)—
> (a)…

---

[3] *Grace Team Accounting Ltd v Brake* [2014] NZCA 541, [2015] 2 NZLR 494.
[4] *Simpsons Farms Ltd v Aberhart* [2006] ERNZ 825 (EmpC) at 842 [65].

> (b) requires the parties to an employment relationship to be active and constructive in establishing and maintaining a productive employment relationship in which the parties are, among other things, responsive and communicative;…

[13] Section 4(1A)(c) of the Act requires an employer who is proposing to make a decision that will, or is likely to, have an adverse effect on the continuation of employment to provide the employee affected with access to information, relevant to the continuation of the employee's employment, about the decision. This engagement is to occur prior to the decision being made.

[14] Failure by an employer to comply with these obligations may fundamentally undermine its ability to justify a dismissal or other action "because a fair and reasonable employer will comply with the law".[5]

[15] Further, in accessing the fairness and reasonableness of the employer's actions in a s 103A setting focus is required on the employment relationship overall. In *FMV v TZB* the Supreme Court discussed this emphasis in the Act and its relationship with the statutory good faith obligations:[6]

> [46] …As its name suggests, the current Act takes a relational approach, insisting that employment is more than a market transaction theoretically conducted at arm's length between individuals with equal bargaining power. The result is that while the employment agreement remains very important, it is the employment relationship that is the real focus under the current Act. The scope of the employment relationship is wider than the employment contract and it adds an additional dimension to contractual rights and obligations. This is reflected in two important ways.
>
> [47] The first is the statutory incorporation of the principle of good faith into the employment relationship. This principle underpins the Act's relational approach.
>
> [48] Part 1, "Key provisions", begins by stating that the object of the Act is:
>
> > to build productive employment relationships through the promotion of good faith in all aspects of the employment environment and of the employment relationship…
>
> [49] This is to be done, first and foremost, by:
>
> > … recognising that employment relationships must be built not only on the implied mutual obligations of trust and confidence, but also on a legislative requirement for good faith behaviour…

---

[5] *Simpsons Farms Ltd v Aberhart* [2006] ERNZ 825 (EmpC) at 842 [65].

[6] *FMV v TZB* [2021] NZSC 102, [2021] 1 NZLR 466, [2021] ERNZ 740 at [46].

> [50] Section 4 then provides that parties to an employment relationship "must deal with each other in good faith". This means, of course, that parties must not mislead or deceive one another, but its effect is wider than that. Parties must also actively and constructively establish and maintain a productive employment relationship; they must be responsive and communicative; and employers must comply with procedural fairness requirements…Parliament was at pains to ensure that the principle of good faith should be the driver of all employment relationships, independently of and in addition to obligations in the employment contract.

Notice period

[16] In *GFW Agri-Products v Gibson* [1995] 2 ERNZ 323 at 329 the Court of Appeal considered the question of when employment comes to an end when an employee is told their employment is to be terminated and then paid until a future date without being required to work during that period:

> It is a mixed question of fact and law as to when a contract of employment comes to an end. A "payment in lieu of notice" is equivocal: *Delaney v Staples* [1992] 1 AC 687, 692. It may be that there is a summary dismissal putting an end to the employment relationship with the payment being, in effect, on account of damages for breach by failure to give proper notice. It may be on the other hand that the employment relationship continues with the payment of wages until the end of the period of notice though the employee is not required to attend for work. In the present case the company's letter of 20 December 1991 indicates there is no immediate payment of a lump sum in lieu of notice but an undertaking to pay the month's salary and holiday pay should the house be vacated prior to 10 January which was specified as the "final date of employment".

The written employment agreement

[17] Mr Pio and SHL's had a written employment agreement. It includes:

> 1.0 Intent of this employment relationship
>
> 1.1 The parties agree that they have a common interest in:
>
> …
>
> (b) Developing and maintaining a working environment where there is mutual trust and co-operation between the Employee and the Employer and where all dealings between the parties are conducted in Good Faith.

[18] With regard to redundancy the written employment agreement provides:

> 23.0 Redundancy

> 23.1 Redundancy is a situation where the Employee's position is surplus to the requirements of the Employer's business or a restructure of the business as a result of changes in the business operations.
>
> 23.2 In the event the Employer considers that the Employee's position could be affected by redundancy, prior to making a decision, the Employer shall:
>
> (a) Consult with the Employee regarding the possibility of redundancy; and
>
> (b) Provide the Employee with sufficient information and time to allow understanding and meaningful consultation; and
>
> (c) Seek and consider the views of the affected Employee; and
>
> (d) Consider whether there are any alternatives to redundancy, such as redeployment.
>
> 23.3 In the event the Employee's employment is to be terminated by reason of redundancy, the Employee, where practicable, shall receive no less than four (4) weeks' notice.
>
> 23.4 The Employer preserves the right to make payment in lieu of all or any part of the notice period. This notice is in substitution for, and not in addition to, the notice period set out in the Termination clause.
>
> 23.5 Where the Employee is given notice, he/she is obliged to work out the notice period, except where the Employee obtains alternative employment that requires a commencement date earlier than the expiry of the notice period. In such circumstances, the Employer may agree to waive any or all of the notice period however the Employee shall not be entitled to payment for any unworked period of notice.
>
> 23.6 No other redundancy compensation shall be payable.

Discussion

Was Mr Pio unjustifiably dismissed by way of redundancy?

[19] SHL sells farm machinery and other related products under agency from a German-based manufacturer (the licence). Mr Pio's role was to promote SHL's products and services.[7] During the term of employment in this role his employing entity changed by agreement to Strautmann Hopkins Waikato Limited, then back to SHL. Mr Pio understood these transfers occurred as a result of HFG's allocation of employees to his subsidiary companies.

[20] He says that from October 2022 SHL employees, including himself were aware that the agency to sell the product would transfer to a new company (the new company), that in January 2023 the new company was incorporated for that purpose and Mr Strut

[7] Refer position description included in the employment agreement.

told him at some point in the future his employment would transfer to the new company. Mr Strut denies any such representation. Mr Hopkins accepted in his evidence to the Authority that he had indicated to Mr Pio he (Mr Pio) would move with him to the new entity because that was the intention.

[21] On Tuesday 18 April 2023 Mr Pio, on his return home to Cambridge following a 3-week sales trip to the South Island, stopped into the HFG head office in Palmerston North, stayed overnight and attended the office again the following day. At about 9am Mr Sturt told him Mr McCarthy wanted to meet with him for a catch up at around 11am, which occurred. At that meeting, in addition to matters discussed later, Mr Pio was given a letter under his (Mr McCarthy's) name dated 19 April:

> Dear John
>
> **Proposed Termination of Employment**
>
> As you are aware, due to the loss of the Strautmann licence, the Strautmann Hopkins business will very shortly cease to exist.
>
> Due to the decision by Strautmann, and despite our efforts, that means that there will be no ongoing business for us. Unless something fundamentally changes in the interim, it would therefore seem that there will be no ongoing role for you. The role of Sales Manager is one that we do not have an ongoing business, it is difficult to justify.
>
> As a result of that, we are writing to formally consult with you about the proposal to terminate your employment for redundancy.
>
> Because the business is intended to cease to operate (and likely be liquidated) we cannot identify any realistic basis for redeployment.
>
> Before any final decision is made about your employment, we invite any input, comment, or response about proposed termination of redundancy. You are entitled to obtain representation (eg by a lawyer, union representative or other person) responding to us.
>
> In the circumstances, we seek any response you might have by **4pm next Wednesday the 26 April 2023**.
>
> If redundancy is the final outcome, (and realistically it appears to be the most likely outcome) then you will be paid all of your contractual entitlements. You may also be paid in lieu of notice, rather than needing to work that out. In addition, we would consider any other assistance that we might be able to provide you in your obtaining other employment (eg reference). Your input on these three points is also invited.
>
> If you have any questions, please let me know.

[22] Mr Pio then travelled home, overnighting in Taupō. On Friday 21 April he left a message with his lawyer who contacted him on Monday 24 April and an appointment was made for the morning of 26 April, the earliest appointment available due to the ANZAC Day public holiday. Mr Pio made the appointment with his lawyer because he wished to get advice about the proposed redundancy. On 24 April Mr Pio rang Mr McCarthy to explain he was getting legal advice on Wednesday morning. Mr McCarthy said they should catch up that day which Mr Pio assumed was to discuss what may have come out of his meeting with his lawyer. Mr McCarthy says during this discussion Mr Pio accepted he was to be made redundant. Mr Pio disputes this.

[23] At 8.20am on Wednesday 26 April Mr McCarthy sent Mr Pio a text message that he wanted to meet him in Cambridge any time after 10am and that Mr Pio was to bring all company property with him including his work vehicle to hand over. At 12.30pm that day Ms Burke, recently instructed by Mr Pio, emailed Mr McCarthy advising all communication on the matter was to be through her. Mr McCarthy rang Ms Burke shortly after to ask when company property in Mr Pio's possession would be returned. Ms Burke wrote to Mr McCarthy by email at 3pm that day including that Mr Pio's dismissal had occurred, it was unjustified and SHL could collect its property from his home at 4pm. SHL wrote to Mr Pio later that day and through Ms Burke terminating his employment for reason of redundancy. The parties exchanged further correspondence.

[24] On 11 May Strautmann Hopkins (2023) Ltd was incorporated. This was eventually to be the vehicle which would take on the licence. This resulted from the decision of the manufacturer on 10 May not to continue its relationship with Strautmann New Zealand Limited and entering of a distribution agreement with HFG on 11 May to continue an interim import and distribution of machinery and spare parts for a transition time of about 6 months pending a permanent solution.[8] This interim period was described in evidence as a 'stand up' phase for Strautmann Hopkins (2023) Ltd to take on the licence.

[25] 26 May was Mr Pio's last day of employment though he had performed little work after 26 April.[9] Between 7 and 9 June the parties' representatives exchange correspondence. SHL's response to Mr Pio's employment relationship problem

[8] Refer email 11 May 2023 "Subject AW: NZ Strautmann".
[9] Refer Mr Pio's final pay slip.

included he had accepted his employment would end by way of redundancy and the licence had transferred to a different entity with different ownership. Following a period in October Strautmann Hopkins 2023 Ltd took over Strautman license and continues to operate the business.

(i) Mr Pio's redundancy genuine?

[26] Mr Pio says if he had been able to work out his notice period or SHL had complied with the effect of placing him on garden leave for the period of his notice period, it is likely he would still been an employee at 26 May 2023. He relies on the notice provisions of his employment agreement and the description on his final payslip that he was on "Garden Leave till 26/5/23". He says compliance with this could have provided the opportunity for his employment to transfer to HFG, SHL's parent company, to which the license had transferred. He says because HFG is SHL's parent company and based on his earlier experience of his employment being transferred, the opportunity to preserve his employment for at least a further 6 months, the "stand up" period before another entity, incorporated on 11 May, for the purposes of taking on the license, was fair and reasonable. He says these are matters within SHL's control and that of its parent company HFG.

[27] SHL says Mr Pio had been on notice for some time as to the likely consequences of changes to the Strautmann licence. It says given he was the only sales manager employed by SHL there was no realistic prospect of redeployment, and he was alert to this as a likely outcome as he indicated in the 19 April meeting and the conversation with Mr McCarthy on 24 April.

[28] The information to support SHL's position that there was an extended process of discussion from October 2022 through to April 2023 is limited. The 19 April letter is the only written record. Mr Pio denies prior to 19 April SHL discussed the situation facing the business in a way which he could reasonably understand was consultation about restructuring which could end in his employment ending. This is accepted. While the evidence establishes prior to receiving the 19 April letter Mr Pio understood there would be changes in the business arising from the licence change he thought he would transfer with Mr Hopkins' new venture. This understanding is properly considered within the context of his past transfer experience within the wider business and was reasonable. The telephone call made to him by SHL representatives in early 2023 when

he was unwell overseas cannot reasonably be considered consultation on a restructuring process. Further and as the evidence developed during the investigation meeting, it was more likely this telephone call was made as part of a process HFG undertook to understand Mr Hopkins' role in respect of licence changes. There is insufficient evidence of meetings held in January and February 2023 which could reasonably amount to consultation about restructuring of the business and Mr Pio's possible redundancy. Mr Pio had no or limited recollection of the meetings, there were no contemporaneous records provided by SHL and the meetings were not referred to or detailed in witness statements.

[29] Mr Pio seeks the Authority lift the corporate veil and treat HFG as having control of SHL's actions and an entity to which Mr Pio's employment could transfer without impediment. He says that due to the close relationship between SHL and HFG, including that HFG is the parent company, his employment could have transferred to HFG or the possibility of his employment transferring to HFG should have been a reasonable consideration in the redundancy process. He says SHL's failure to provide sufficient information as to matters relating to the Strautmann licence including those relating to maintenance and sale of machinery stock in New Zealand and the swiftness of the redundancy process denied him a fair opportunity to get advice and raise such issues with SHL.

[30] The Authority's specific third-party compliance enforcement jurisdiction is not available to Mr Pio.[10] There is no compliance application before the Authority.

[31] It is accepted the changes to the Strautmann licence arrangements faced by SHL and the parent company in 2022/2023 were unprecedented in the long history of the business's relationship with the manufacturer. It is also accepted the response required from those responsible for SHL and HFG to deal with the situation and preserve that relationship in the first half of 2023 was complex and dynamic. On balance and standing back from the detail of matters involving engagement with Mr Pio, I am satisfied his redundancy was motivated by a genuine business need of SHL because by the date he was given notice of dismissal it no longer had the ability to sell under licence Straumann

[10] *Allen Chambers Ltd v Pelabon* [2019] ERNZ 64.

product in New Zealand which was SHL's fundamental business. The transfer issue is addressed below.

(ii) Has SHL complied with the notice and consultation requirements of s 4 of the Act?

[32] Having considered the broader question of genuineness, I turn now to consider how SHL discharged its obligations to Mr Pio in terms of notice and good faith obligations. Even in a genuine redundancy the requirement on SHL to actively engage constructively with Mr Pio to maintain a productive employment relationship and provide access to information relevant to the continuation of his employment is not diminished.[11]

[33] SHL is unable to establish that it has met these obligations. Even on SHL's account of how Mr Pio's employment ended, it falls short of meeting the consultation obligations owed to Mr Pio. Mr Pio went to the 19 April meeting unprepared and without any reasonable opportunity to prepare. He received no prior notice of the purpose of the meeting, and he was not asked to bring a support person or representative to the meeting.

[34] Mr Pio denies he indicated his acceptance of redundancy at either the 19 April meeting or in the telephone conversation with Mr McCarthy. He says in the 19 April meeting he was alarmed at the prospect of his employment ending and sought to negotiate an extended payment of 3 months. Given the nature of the meeting, including Mr Pio's lack of preparation, his comment cannot reasonably be relied on by SHL as Mr Pio acceding to his employment ending by way of redundancy. I do not accept Mr Pio agreed to be made redundant during the telephone call with Mr McCarthy. His contemporaneous and established actions are not consistent with such – he told SHL he was seeking advice, did so and instructed a representative to engage with SHL so his views on the proposal could be advanced.

[35] The swiftness of the dismissal process and SHL's failure to allow Mr Pio a reasonable opportunity to seek advice and respond to the redundancy proposal has left it vulnerable to criticism that it has failed to consult fairly and reasonably. It remains unclear to the Authority why the redundancy process needed to be so quick. Mr Pio's

[11] Employment Relations Act 2000, s 4.

submission is accepted that had he had the opportunity to fairly respond to the redundancy proposal after taking advice, he would have sought to further understand in more detail the circumstances the business faced, including seeking information and he would likely have sought to understand why his employment could not transfer to any new entity as he had done in the past. He was entitled to ask such questions and to receive and consider information from his employer. It is not accepted the hard line asserted by SHL between it and HFG in response to Mr Pio's submission as to its porosity is beyond the scope of the type of active and communicative engagement required by legislation. This is particularly so given the aspects of the employment environment tended to flexibility regarding transfer and on 19 April the a possible transfer to a farm role with HFG had been discussed and ruled out.[12] Given Mr Pio's understanding of the parties' prior apparent openness to transfer arrangements and his submission to those processes, it could readily be anticipated by SHL that this would be information relevant to the redundancy consultation process including that concerning the possible continuation of Mr Pio's employment.[13]

[36] SHL was responsible for and wholly in control of the process which has resulted in Mr Pio's dismissal. The deficiencies outlined above are not minor or technical and mean SHL cannot demonstrate it acted fairly and reasonably in dismissing Mr Pio. On the evidence before the Authority Mr Pio's dismissal for redundancy is unjustified.

Is commission and holiday pay outstanding?

[37] Mr Pio's commission payment and holiday pay claim does not succeed. The terms of the parties' commission payment scheme is clear and the qualifying conditions have not been met. The basis for the holiday pay claim appears to have been resolved through the investigation process and is not further quantified. It is dismissed.

Remedies

[38] Mr Pio has established a personal grievance for unjustified dismissal. He is entitled to a consideration of the remedies sought.

---

[12] Employment Relations Act 2000, s 3(a).
[13] Employment Relations Act 2000, s 4(1A)(c).

Reimbursement of lost wages

[39] Mr Pio seeks an award of at least 6 months lost wages and up to 12 months. His search for employment has been protracted and extensive. Factors known to the parties including Mr Pio's age and qualification level and the limited opportunities in New Zealand for roles of this type in the parties' industry have likely hindered his search. After reviewing the evidence of loss and Mr Pio's attempts to mitigate that loss the Authority is satisfied it is appropriate to exercise its discretion under s 128(3) of the Act and make an award of lost wages of 5 months to be paid at base salary rate of time of his dismissal.

Compensation for humiliation, loss of dignity and injury to feelings

[40] I accept the circumstances of Mr Pio's personal grievance has had a profound and negative impact on him. His professional and personal circumstances were known to SHL during his employment, and they have amplified the negative impact of his dismissal from which Mr Pio has struggled to recover. Mr Pio gave compelling evidence of the ongoing negative impact of his dismissal, it's exhausting and financially detrimental impact on him and his family and his extensive search for work which has included travelling overseas, spending long periods of time away from his family. He is entitled to an award to compensate the humiliation, loss of dignity and injury to feelings consequent to such of $18,000.00.

If any remedy is awarded, should it be reduced (under s 124 of the Act) for blameworthy conduct by Mr Pio that contributed to the situation giving rise to his grievance?

[41] No deduction from the remedies awarded is to be made under s 124 of the Act. Mr Pio's dismissal was a 'no fault' redundancy and his conduct did not contribute in a blameworthy way to the situation giving rise to his personal grievances. Indeed, Mr Pio attempted to negotiate a resolution with SHL on 19 April, consistent with the active constructive engagement required under an employment relationship.

[42] There are no deductions from the monetary remedies for reasons of contribution.

Penalties

[43] Mr Pio seeks penalties against SHL for misleading and deceptive conduct and breach of obligations of good faith. These obligations are extant within the employment relationship. Mr Pio says matters discovered post-employment reveal the true

motivation for his redundancy. This is not established on the evidence. What was established at the investigation meeting by way of the frank and detailed evidence of witnesses for the respondents, was a difficult and dynamic time within the business. Mr Pio's employment was swept up in that process. He has been compensated for the losses established. A penalty is not appropriate.

[44] Mr Pio seeks an order of penalty against HFG for acting to delay or obstruct the Authority process under s 134A of the Act.[14] The basis for this, as described by Mr Pio, are steps taken by HFG to remove SHL from the companies register after this application had been lodged in the Authority. Potential obstruction is outside the scope of s 134A.[15] There is no suggestion the action was unlawful, and I find was reasonably contemplatable given the entity was no longer trading. Even if it had been removed from the companies register it could be reinstated, although I accept that would require resources to be utilised. There is no basis for an award of a penalty against HFG.

Summary

[45] Strautmann Hopkins Limited must pay John Pio the following amounts within 21 days of the date of determination:

(i) $18,000 under 123(1)(c)(i) of the Act; and
(ii) 5 months ordinary pay.

Costs

[46] Costs are reserved. The parties are encouraged to resolve any issue of costs between themselves.

[47] If they are unable to do so and an Authority determination on costs is needed Mr Pio may lodge, and then should serve, a memorandum on costs within 14 days of the date of issue of the written determination in this matter. From the date of service of that memorandum Strautmann Hopkins Limited and Hopkins Farming Limited would then have 14 days to lodge any reply memorandum. Further timetabling may be directed. Costs will not be considered outside this timetable unless prior leave to do so is sought and granted.

---

[14] Third amended statement of problem 12 February 2025.
[15] *Ahuja v Labour Inspector* [2018] NZEmpC 31.

[48] All submissions must include a breakdown of how and when the costs were incurred and be accompanied by supporting evidence. The parties could expect the Authority to determine costs, if asked to do so, on its usual notional daily rate unless particular circumstances or factors required an upward or downward adjustment of that tariff.[16]

Marija Urlich
Member of the Employment Relations Authority

[16] For further information about the factors considered in assessing costs see: www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1.