

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2026] NZERA 183
3344340

BETWEEN	A LABOUR INSPECTOR OF THE MINISTRY OF EMPLOYMENT INNOVATION AND BUSINESS Applicant
AND	G & G BOLINA LIMITED T/A FOUR SQUARE TUAHARA First Respondent
AND	GURVINDERPAL SINGH Second Respondent

Member of Authority: Rachel Larmer

Representatives: Sophie Hendren, counsel for the Applicant
Sanjay Sharma, counsel for the Respondents

Investigation: On the papers

Submissions Received: 20 February and 16 March 2026 from the Applicant
3 and 4 March 2026 from the Respondents

Date of Determination: 27 March 2026

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] This matter involved a Labour Inspector's application for penalties and costs in response to findings made regarding the successful substantive claims against the first respondent, G & G Bolina Limited trading as Four Square Tauhara (Bolina), and the second

respondent, Mr Gurvinderpal Singh (Mr Singh), that were recorded in the Authority's consent determination on liability for *A Labour Inspector v G & G Bolina Ltd and Singh*.¹

Material background

[2] The applicant is a Labour Inspector designated under section 223 of the Employment Relations Act 2000 (the Act) and is employed by the Ministry of Business, Innovation and Employment (MBIE).

[3] The first respondent is a limited liability company incorporated on 20 August 2012 which is based in Tauhara, Taupo. It operates a general grocery store in the retail industry under the trading name Four Square Tuahara.

[4] Bolina was at the material time an Accredited Employer under the Accredited Employer Work Visa Scheme operated by Immigration New Zealand (INZ).

[5] Mr Singh has previously been one of Bolina's two directors. He was a director from the date of Bolina's incorporation on 20 August 2012 until 23 December 2021. Mr Singh is also a fifty per cent shareholder in Bolina. He is no longer a director of Bolina but remains a shareholder.

[6] Mr Singh was personally involved in each of Bolina's breaches of employment standards that have occurred. At the time of the events related to the breaches, Mr Singh was a former director but remained a fifty per cent shareholder of Bolina. Mr Singh accepted that he was 'a person involved in breaches of employment standards' pursuant to 142W(1)(c) of the Employment Relations Act 2000 (the Act), 'a person involved in the failures to comply' regarding Bolina's breaches of the Holidays Act 2003 (the HA03), of the Minimum Wages Act 1983 (the MWA) and a person who had requested, and in the case of one former employee had also received, a premium in breach of s 12A of the Wages Protection Act 1983 (the WPA).

[7] These proceedings required the Authority to assess penalties for Bolina's breaches of:

- (a) Section 6 of the MWA.
- (b) Section 12A of the WPA.

¹ *A Labour Inspector v G & G Bolina Ltd and Singh* [2025] NZERA 827.

(c) Sections 23, 28, 40, 50, 56, 60 and 81 of the HA03.

(d) Sections 65 and 130 of the Act.

[8] The Authority also had to assess penalties for Mr Singh, who the parties agreed:

(a) Pursuant to s 75(3) of the HA03 was ‘a person involved in the failure to comply’ with the HA03 obligations that Bolina breached.

(b) Pursuant to s 142W of the Act was ‘a person involved in breaches of employment standards’ as defined by s 5 of the Act that occurred as a result of Bolina’s breaches of the Act, the MWA and the WPA.

[9] Bolina’s breaches of the Act, the MWA, the WPA and the HA03 involved four of its employees; Paramjit Kaur, Guriqbal Singh Bains, Arti Rayait and Shanese Sharland (together referred to as “the Affected Employees”). Ms Kaur and Mr Bains were both migrant workers who held Accredited Employer Work Visas (AEWVs) that required them to work as Store Assistants for Bolina.

[10] Ms Kaur and Mr Bains were complainants to the Labour Inspectorate (the Complainants). In the course of investigating these complaints, the Labour Inspector identified breaches by Bolina of s 130 of the Act and of the HA03 that affected two other employees, Arti Rayait and Shanese Sharland (the Employees).

The Authority’s investigation

[11] By agreement with the parties, penalties and costs were determined ‘on the papers’ based on the liability findings made in the Authority’s consent determination dated 18 December 2025.²

[12] The parties lodged an Agreed Summary of Facts (ASoF), a Joint Bundle (JB) of relevant documents and written submissions.

Issues

[13] The following issues are to be determined:

(a) Should penalties be imposed on the Respondents?

² A *Labour Inspector v Bolina*, above n1.

- (b) What breaches are to be penalised?
- (c) Assessment of penalties to be imposed on each Respondent.
- (d) Should part of any penalties imposed be paid to the Complainants instead of the Crown?
- (e) What costs and disbursements should be awarded?

Relevant law

[14] Section 133A of the Act sets out the factors the Authority must have regard to when assessing penalties. The Employment Court has also issued the Authority with guidance on how to approach the assessment of penalties in *Borsboom (Labour Inspector) v Preet PVT Limited and Warrington Discount Tobacco Limited*,³ *Nicholson v Ford*⁴ and *A Labour Inspector v Daleson Investment Limited*.⁵

[15] The Court has confirmed in these well known cases that the relevant considerations for the Authority when assessing penalties are as follows:

- (a) Statutory Consideration 1 – The object of the Act
- (b) Statutory Consideration 2 – The nature and extent of the breach
- (c) Identify the nature of breaches.
- (d) Identify the number of breaches.
- (e) Identify the maximum penalty available in respect of each identified breach.
- (f) Consider whether global penalties are appropriate.
- (g) Statutory Consideration 3 – Whether the breach was intentional, inadvertent, or negligent
- (h) Assess the severity of the breach.
- (i) Statutory Consideration 4 – The nature and extent of any loss or damage
- (j) Statutory Consideration 5 – Steps to mitigate effects of the breach

³ *Borsboom (Labour Inspector) v Preet PVT Limited & Warrington Discount Tobacco Ltd* [2016] ERNZ 514 at [61]-[64].

⁴ *Nicholson v Ford* [2018] NZEmpC 132.

⁵ *A Labour Inspector v Daleson Investment Limited* [2019] NZEmpC 12.

- (k) Statutory Consideration 6 – Circumstances of the breach, and any vulnerability
- (l) Statutory Consideration 7 – Previous conduct
- (m) Additional Consideration 8 – Deterrence
- (n) Additional Consideration 9– Culpability
- (o) Additional Consideration 10 – Consistency
- (p) Additional Consideration 11 – Ability to Pay
- (q) Consider the means and ability of the person in breach to pay any penalty.
- (r) Additional Consideration 12 – Proportionality of outcome
- (s) Consider the proportionality of the penalty in relation to the harm caused.

What breaches are to be penalised?

[16] The parties agreed that the following breaches occurred, and that Mr Singh was a person involved in them:

- (a) A \$10,000.00 premium was sought from Ms Kaur and Mr Bains, and received from Mr Bains, in breach of s 12A of the WPA.
- (b) Compliant employment agreements were not provided to the Affected Employees, in breach of s 65 of the Act.
- (c) Fully compliant wage and time records were not kept for Ms Kaur, Mr Bains and Arti Rayait, in breach of s 130 of the Act.
- (d) Full and accurate holiday and leave records were not kept for the four Affected Employees, in breach of s 81 of the HA03.
- (e) Ms Kaur and Mr Bains were not paid at least the minimum wage for all hours worked, in breach of s 6 of the MWA.
- (f) Mr Bains was not paid time and a half for the hours he had worked on a public holiday, in breach of s 50 of the HA03.
- (g) Mr Bains was not provided with an alternative holiday for working on a public holiday that fell on an otherwise working day for him, in breach of s 56 of the HA03.

- (h) Mr Bains' final pay did not include payment for an alternative holiday not taken during his employment, in breach of s 60 of the HA03.
- (i) One public holiday was not treated as a public holiday when that public holiday fell during Arti Rayait's annual holidays period, in breach of s 40 of the HA03.
- (j) The four Affected Employees were incorrectly paid 'pay as you go' annual holiday pay with their hourly pay contrary to s 16 of the HA03, because s 28(1) of the HA03 did not apply (which permits pay as you go holiday pay in certain circumstances) to these four employees.
- (k) Ms Kaur and Mr Bains were not correctly paid their annual holiday pay on termination of their employment, in breach of s 23 of the HA03.

Should penalties be imposed on the Respondents?

[17] The Employment Court in *Preet* stated the purposes of penalties are to:⁶

- (a) Signal disapproval of conduct that breaches employment law obligations.
- (b) Punish those who breach minimum employment standards.
- (c) Deter companies and individuals from committing employment breaches,
- (d) Eliminate unfair competition.

[18] It is therefore necessary and appropriate to impose penalties on the Respondents for breaching minimum employment standards in order to fulfil the penalty objectives identified by the Court in *Preet*.

Assessment of penalties to be imposed on the Respondents

Statutory Consideration 1 – Object of the Act

[19] Section 3 of the Act states that its objects include (amongst others) to:

- (a) Recognise the implied mutual obligations of trust and confidence in the employment relationship and to require good faith behaviour within that relationship (s 3(a)(i));

⁶ *Preet*, above n3.

- (b) Acknowledge and address the inherent inequality of power in employment relationships (s 3(a)(ii)); and
- (c) Promote the effective enforcement of employment standards, in particular by Labour Inspectors (s 3(ab)).

[20] In regard to the objectives of the Act, the Court in *Labour Inspector of the Ministry of Business, Innovation and Employment v Samra Holdings Ltd* stated:⁷

The failure to keep adequate or accurate wage and time records is clearly inconsistent with the purposes of the Employment Relations Act, as is the failure to pay minimum wage, annual holiday pay, public holiday pay, and requiring the payment of premiums. Such conduct undermines the obligations of mutual trust and confidence which requires such breaches to be penalising.

[21] The Respondents in this matter took advantage of the inherent inequality of power in the employment relationship by failing to pay the minimum wage for all hours worked to the Complainants. The Labour Inspector submitted that the inherent inequality of power in the employer/employee relationship is amplified in this case as the Complainants were migrant workers, recently arrived in New Zealand, whose visa status was dependent on the Respondents. The Respondents took advantage of this imbalance further by seeking a premium from both Complainants, although they only obtained a premium of \$10,000.00 from Mr Bains for his employment.

[22] Bolina's failure to keep compliant employment records put the Affected Employees at a disadvantage and arose in circumstances which there was a power imbalance between the Respondents and the Complainants. Bolina's failures to fully pay employees their entitlements was serious because it undermined minimum employment standards which have been set to protect employees, particularly those who are inherently vulnerable. It also gave Bolina an unfair competitive advantage in the marketplace.

[23] The Respondents' breaches undermined trust and confidence and breached Bolina's good faith obligations to the Affected Employees, contrary to the objects of the Act.

⁷ *Labour Inspector v Samra Holdings Ltd* [2022] NZEmpC 234 at [69].

Statutory Consideration 2 – Nature and extent of the breach

(i) Nature of the breaches

[24] The breaches to be penalised have been identified in paragraphs [16] and [51], the details of these breaches are set out in paragraphs [19] – [22] of this determination.

A. Amounts owed by Bolina and outstanding leave balances

[25] The total amount of unpaid entitlements arising in relation to the four Affected Employees was \$28,139.24. Ms Kaur was owed \$8,833.05 and Mr Bains was owed \$19,306.19. However, the breaches to be penalised also related to incorrect recording of annual holiday entitlements for Arti Rayait and Shanese Sharland, who are still owed reinstatement of their outstanding annual holiday entitlements.

[26] Bolina owed minimum wage arrears pursuant to s 11 of the MWA for failing to pay the minimum wage to Ms Kaur and Mr Bains, in breach of s 6 of the MWA. Bolina owed wage arrears of:

- (a) \$8,137.19 to Ms Kaur; and
- (b) \$7,978.22 to Mr Bains.

[27] Bolina and Mr Singh obtained an employment premium of \$10,000.00 from Mr Bains in breach of s 12A(2) of the WPA.

[28] Pursuant to s 77 of the HA03, Bolina owed:

- (a) Mr Bains \$460.68 for failing to pay him his public holiday entitlements, in breach of ss 50, 56 and 60 of the HA03.
- (b) Ms Kaur \$695.86 annual holiday pay arrears and annual holiday entitlement for breaches of ss 16, 23 and 40 of the HA03.
- (c) Mr Bains \$867.29 annual holiday pay arrears and annual holiday entitlement for breaches of ss 16, 23 and 40 of the HA03.

[29] Pursuant to s 7 of the HA03, Bolina owed:

- (a) An outstanding annual leave balance of 1.77 weeks to Arti Rayait, which it was ordered to reinstate.

- (b) An outstanding annual leave balance of 1.07 weeks to Shanese Sharland, which it was ordered to reinstate.

B. Deficiencies in four employment agreements

[30] Bolina's employment agreements with Ms Kaur and Mr Bains did not contain a plain language explanation of the services available for the resolution of employment relationship problems, including reference to the 12-months' period within which a sexual harassment personal grievance must be raised, which is mandatory information required by s 65 of the Act.

[31] Bolina's employment agreements with Arti Rayait and Shanese Sharland contained a clause related to the employee's entitlement to breaks which stated that the breaks will be at a reasonable and suitable length. This was contrary to section 69ZD of the Act which stipulates the employee's entitlement to, and the employer's duty to provide, rest breaks and meal breaks for a defined break length of time.

[32] Bolina failed to provide fully compliant employment agreements to the Affected Employees that included mandatory information in line with the requirements of section 65(2)(a)(vi) of the Act and did not include anything contrary to law, as required under section 65(2)(b) of the Act.

C. Breaches of s 130 of the HA03 due to inaccurate wage and time records

[33] Bolina breached s 130 of the Act by failing to keep accurate and legally compliant wage and time records for three employees.

[34] Bolina's wage and time records provided by the Respondents did not record Ms Kaur's or Mr Bain's postal addresses. Bolina's wage and time records also failed to record for Ms Kaur, Mr Bains and Arti Rayait the number of hours worked each day in a pay period and the method of calculation for those hours.

[35] Ms Kaur's start date was incorrectly recorded in Bolina's wage and time records as 2 October 2023 when she had actually started work on 16 September 2023. Mr Bains' started work on 3 August 2023 but his wage and time records incorrectly recorded his start date as 11 September 2023.

[36] Mr Bains mostly worked seven days a week, with a variable number of hours worked daily ranging from 2 to 15 hours a day, whereas the records provided by the Bolina incorrectly showed that he always worked five days a week for six hours a day.

[37] Ms Kaur worked between five and seven days a week with a variable number of hours worked daily ranging from 2 to 15 hours a day. The records provided by the Bolina incorrectly showed that she always worked five days a week for six hours a day.

D. Breaches of s 81 of the HA03 due to inaccurate holiday and leave records

[38] Bolina breached s 81 of the HA03 by failing to keep accurate and legally compliant holiday and leave records for three employees; Ms Kaur, Mr Bains and Arti Rayait.

[39] Bolina's holiday and leave records did not:

- (a) Record the date on which Ms Kaur's and Mr Bains' employment commenced.
- (b) Accurately record the number of hours worked each day in a pay period and the pay for those hours for Ms Kaur, Mr Bains and Arti Rayait.
- (c) Correctly record Arti Rayait's and Shanese Sharland's current entitlement to annual holidays.
- (d) Record the date on which Art Rayait last became entitled to annual holidays.
- (e) Record date of, and payment for, any public holiday on which Mr Bains had worked, the number of hours that he had worked on a public holiday he had worked and the date on which he had become entitled to any alternative holiday for having worked on a public holiday.

E. Breaches of the MWA for failing to pay the minimum wage for hours worked

[40] Bolina breached s 6 of the MWA by failing to pay Ms Kaur and Mr Bains no less than the applicable minimum wage rate for all hours they had worked.

[41] Bolina failed to pay:

- (a) Ms Kaur for 358.47 hours she worked over the period 16 September to 7 December 2023, depriving her of wages of \$8,137.19.

- (b) Mr Bains for 351.46 hours he worked over the period 8 October to 10 December 2023, depriving him of wages of \$7,978.22.

F Failure to pay correct public and alternative holidays entitlements

[42] Bolina breached ss 50, 56 and 60 of the HA03, which related to its failure to pay Mr Bains his correct public and alternative holiday entitlements. These breaches resulted in Mr Bains being deprived of wages amounting to \$460.68.

[43] Mr Bains worked 8.72 hours on 23 October 2023 which was the Labour Day public holiday. Bolina breached:

- (a) Section 50 of the HA03, by failing to pay Mr Bains time and a half for the hours he had worked on Labour Day. This resulted in him being owed wage arrears of \$209.92.
- (b) Section 56 of the HA03, by failing to provide Mr Bains with an alternative holiday for having worked on Labour Day.
- (c) Section 60 of the HA03, by failing to pay Mr Bains for the alternative holiday he had not taken during his employment in his final pay. This resulted in him being owed wage arrears of \$250.76.

G Breach of s 40 of the HA03 relating to a public holiday that occurred during annual holidays period

[44] Arti Rayait took annual holidays from 1 April to 3 May 2024. Bolina failed to treat Monday, 1 April 2024 (Easter Monday) as a public holiday when it occurred while Arti Rayait was using their annual holiday entitlement. This breached the requirements of s 40 of the HA03, which required Easter Monday (1 April 2024) to be treated as a public holiday for Arti Rayait and not as a day of paid annual holiday for them.

[45] Bolina's breach of s 40 of the HA03 resulted in Arti Rayait's annual holiday entitlement being incorrectly reduced by 0.2 weeks. Bolina was ordered to reinstate this annual holiday entitlement but it has not provided confirmation to the Authority or Labour Inspector that has occurred.

H. Breach of s 28(1) of the HA03 due to ‘pay as you go’ holiday pay being incorrectly paid

[46] Bolina wrongly paid the four Affected Employees eight per cent holiday pay with their regular pay during their whole employment period, when it was not legally permitted to do so. Bolina breached 28(1) of the HA03 because the Affected Employees:

- (a) Were permanent employees.
- (b) Had never agreed in writing to be paid holiday pay in with their wages.
- (c) Had regular work patterns throughout their respective employment.

[47] Bolina’s breach of s 28(1) of the HA03 meant it failed to provide Arti Rayait and Shanese Sharland with four weeks’ annual holidays for each completed 12-months of continuous employment, since the start date of their employment, as a consequence of having paid them eight per cent holiday pay with their normal pay. Bolina therefore breached s 16 of the HA03 because it reduced:

- (a) Arti Rayait’s entitlement to annual holidays by at least 1.57 weeks.
- (b) Shanese Sharland’s entitlement to annual holidays by at least 1.07 weeks.

[48] Bolina incorrectly paid annual holiday pay with the Affected Employees’ pay in circumstances where section 28(1) of the HA03 did not apply.

[49] The Authority ordered Bolina to reinstate the annual holiday entitlements of Arti Rayait and Shanese Sharland in accordance with section 28(4) of the HA03 or to pay out these annual holiday entitlements arrears if their employment with had ended.⁸ According to the Labour Inspector’s reply submissions dated 16 March 2026 that had still not yet been done.

I. Breach of s 23 of the HA03

[50] Bolina breached s 23 of the HA03 by failing to pay Ms Kaur and Mr Bains their correct annual holiday pay when their employment ended. These breaches resulted in annual holiday pay arrears to the two Complainants consisting of:

- (a) \$695.86 being owed to Ms Kaur.

⁸ A *Labour Inspector v Bolina*, above n1 at [58].

(b) \$884.11 being owed to Mr Bains.

(ii) Number of breaches

[51] There are 23 breaches in total that attract penalties, which are discrete breaches of separate obligations in relation to each of the four Affected Employees, consisting of:

- (a) Two breaches of section 12A of the WPA (the WPA breaches).
- (b) Two breaches of section 6 of the MWA (the MWA breaches).
- (c) Three breaches of section 130 of the Act (the W&T record breaches).
- (d) Two breaches of section 65 of the Act (the employment agreement breaches).
- (e) Four breaches of section 81 of the HA03 (the H&L records breaches).
- (f) One breach of s 50 of the HA03 (time and a half payment for working on a public holiday).
- (g) One breach of s 56 of the HA03 (alternative day holiday for working on a public holiday).
- (h) One breach of s 60 of the HA03 (failure to pay out alternative holiday when employment ends).
- (i) One breach of s 40 of the HA03 (relationship between a public holiday and annual holidays).
- (j) Two breaches of s 23 of the HA03 (calculation of annual holiday pay if the employee has worked for less than 12 months).
- (k) Four breaches of s 28 of the HA03 (payment of 'pay as you go' holiday pay).

(ii) Maximum penalty available for the identified breaches

[52] The maximum total penalty available against the First Respondent, as a company, is \$20,000.00 per breach. Accordingly, in respect of the 23 breaches on a 'per employee, per breach' basis the total potential maximum penalties is \$460,000.00.

[53] The total maximum penalty available against the Second Respondent, as an individual, is \$10,000.00 per breach. Accordingly, in respect of the 23 breaches on a 'per employee, per breach' basis the potential maximum total penalties is \$230,000.00.

(iii) Are global penalties appropriate?

[54] It is open to the Authority globalise the penalties across employees, or maintain them on a ‘per employee, per breach basis’. The recent Authority decision in *Labour Inspector v FWP and LEM* involved four employees, as does this case.⁹ However, the *FWP* case involved fifty breaches compared to the twenty three breaches that are being penalised in this matter.

[55] In *FWP*, the Authority decided to globalise the breaches across employees as one breach per type of breach of each statute. That approach had reduced the fifty breaches in *FWP* to seven breaches that attracted penalties.

[56] In *Labour Inspector v RBM Communication Ltd*, there were a total of 24 breaches of minimum employment standards that related to three employees.¹⁰ The Authority in *RMB* decided not to globalise penalties across employees given the small number of employees.¹¹

[57] Given that the breaches in this case are less than half the number of breaches in *FWP*, and the number of employees remains relatively small, the Authority considered that it was not appropriate to globalise all penalties across the four Affected Employees in this matter.

[58] Instead, the Authority has globalised similar breaches together. The Employment Court’s decision in *LI v Samra Holdings Ltd* involved similar breaches as this matter, although there were a significantly higher number of total breaches.¹² The Court found that failure to provide a compliant employment agreement “is a starting point for record keeping obligations”; and found that it was appropriate to globalise those breaches with other record keeping breaches.¹³

[59] Accordingly, the employment agreement breaches, holiday and leave records breaches, and the wage and time records breaches in this matter have been globalised into “record keeping breaches”.

[60] It is also appropriate to globalise the public holidays breaches (involving ss 40, 50 56 and 60 of the HA03) as a single breach per Affected Employee, and to separately globalise the

⁹ *Labour Inspector v FWP* [2025] NZERA 93 at [48].

¹⁰ *Labour Inspector v RBM Communication Ltd* [2022] NZERA 229.

¹¹ *RBM Communication*, above n10 at [73]-[74].

¹² *Samra Holdings*, above n7.

¹³ *Samra Holdings*, above n7 at [63].

annual holiday breaches (involving ss 23 and 28 of the HA03) as a single breach per Affected Employee.

[61] This globalisation has reduced the number of breaches for which penalties will be imposed from 23 to 14 breaches, as follows:

- (a) The MWA breaches affecting two employees.
- (b) The WPA breaches affecting two employees.
- (c) Record keeping breaches affecting four employees.
- (d) Public holidays breaches affecting two employees (being breaches of ss 40, 50, 56 and 60 of the HA03).
- (e) Annual holiday breaches affecting four employees (being breaches of ss 23 and 28 of the HA03).

[62] The maximum available potential penalties that could be imposed on Bolina are therefore \$280,000.00, being:

- (a) \$40,000.00 for the MWA breaches.
- (b) \$40,000.00 for the WPA breaches.
- (c) \$80,000.00 for the record keeping breaches.
- (d) \$40,000.00 for breaches involving public holiday entitlements.
- (e) \$80,000.00 for breaches involving annual holiday entitlements.

[63] Maximum potential penalties for Mr Singh would be \$140,000.00, being:

- (a) \$20,000.00 for the MWA breaches.
- (b) \$20,000.00 for the WPA breaches.
- (c) \$40,000.00 for record keeping breaches.
- (d) \$20,000.00 for public holiday entitlements breaches.
- (e) \$40,000.00 for annual holiday entitlements breaches.

Statutory Consideration 3 – Whether the breaches were intentional, inadvertent or negligent?

[64] The Respondents have accepted responsibility for the breaches. Mr Singh was in control of when the employees worked and what they were paid. The Respondents deliberately undertook all of the various actions or inactions which fell short of meeting minimum code standards, which are intended to protect employees.

[65] The finding that the Respondents' breaches were deliberate was based on the fact they treated the recently hired migrant workers (who were vulnerable due to their immigration status being linked to their employment by Bolina) differently than they treated other workers. That indicated a level of intentionality and opportunism by the Respondents regarding their conduct.

[66] Mr Singh, as the person responsible for directing hours of work, shifts and time off, and keeping manual records before an automated payroll system was introduced into Bolina's business, must have known that Ms Kaur and Mr Bains were working significantly more hours than Bolina was recording for them in its wage and time records. In that regard Ms Kaur and Mr Bains, being recently hired migrant workers, were treated differently than Bolina's other employees who were not working under AEWVs.

[67] The Respondents were aware of the matters which comprised the breaches, in particular in relation to the minimum wage breaches, inaccurate wage and time records, and the seeking of a premium. The fact the breaches of employment standards involved more than one employee indicated it was not simply an oversight or unintentional. The Respondents knew Ms Kaur and Mr Bains were working significantly more hours than had been recorded and paid, which indicated to the Authority that the breaches must have been intentional.

Assessment of the severity of the breaches

[68] Assessing the severity of the breaches on the basis of the above factors:

- (a) For the failures to pay the minimum wage to the two Complainants, the appropriate starting point is 50 per cent. The failures resulted in an obvious financial and commercial advantage to the Respondents, who received significantly more labour from the two Complainants than they were being compensated for. There was a level of intentionality to these breaches which requires a penalty that marks its seriousness and is sufficiently high to ensure it has a deterrent effect.

- (b) In regard to the seeking of a premium, a different starting point is applied for the breaches against Ms Kaur and Mr Bains, to mark the fact that a premium was only actually received from Mr Bains. For the seeking of a premium from Ms Kaur, a 40 per cent starting point of the maximum potential penalty that could be imposed on the Respondents was considered appropriate at Step 2(a) of the penalty assessment process. For the breaches involving Mr Bains, a starting point of 50 per cent of the potential maximum penalties for the Respondents was applied at Step 2(a) of the penalty assessment process.
- (c) For the record keeping breaches, the starting point of 50 per cent of the maximum penalty was applied. This recognised the mixed seriousness of these breaches, given that the employment agreement breaches related to only the omission of a few specific clauses so were therefore relatively minor, but the time and wage records of Ms Kaur and Mr Bains were significantly incorrect and this erroneous information about payment was recorded and provided to the Labour Inspector. This incorrect information hindered the Labour Inspector in being able to properly calculate arrears and it also hindered the Complainants' ability to understand and access their minimum entitlements.
- (d) For the public holiday breaches, the appropriate starting point was considered to 20 per cent of the potential maximum penalties. This reflected that these breaches related to only two public holidays, but nevertheless recognised Mr Bains and Arti Rayait were denied their minimum public holiday entitlements.
- (e) For the annual holiday breaches, the appropriate starting point was 30 per cent of the maximum possible penalty. This reflected that Arit Rayait and Shanese Sharland were not disadvantaged financially as occurred with some of the other breaches, because they were paid their annual holiday with their pay. Nevertheless, these two Employees were denied their minimum entitlement to annual holidays, and the Complainants were underpaid their full annual holiday entitlement by a material amount.

[69] These calculations are reflected in the penalty tables appended as Appendix A to this determination.

Statutory Consideration 4 – Nature and extent of any loss or damage

[70] In assessing the severity of the breaches, it is necessary to consider the nature and extent of loss or damage. The consent determination on liability for these breaches that was determined by the Authority on 18 December 2025 recorded the parties' settlement in respect of the wage arrears claimed and acknowledged breaches of minimum employment standards.¹⁴

[71] The Respondents agreed that total arrears of \$8,833.05 were owed to Ms Kaur for minimum wage and holiday pay breaches, and that \$19,306.19 in arrears was owed to Mr Bains for minimum wage, premium, and holiday pay breaches.

[72] Both Complainants were denied the benefit of the use of their money at the time they were entitled to it. At the time of the breaches the Respondents benefited financially from the breaches through the retention of money which was rightfully owed to the two Complainants. While the arrears were paid to the Labour Inspectorate for distribution in January 2026, the Complainants were disadvantaged by being deprived of money that was rightfully theirs and which Bolina should have paid them in the latter half of 2023.

[73] The Authority's consent determination also ordered the Respondents to reinstate 1.77 weeks annual holiday entitlement for Arti Rayait and 1.07 weeks annual holiday entitlement for Shanese Sharland.¹⁵ Although the loss of recorded annual leave entitlements to these two Employees was less harmful than the actual financial loss of holiday pay to the Complainants, they were nevertheless denied their full annual holiday entitlement for over a year.

Statutory Consideration 5 – Steps to mitigate effects of the breach

[74] The Complainants have been paid the wage arrears they were owed by Bolina, as required by the Authority's consent determination. However, care should be taken to avoid attaching undue weight to the payment of monies that were owed to employees as a mitigating factor.¹⁶

¹⁴ *A Labour Inspector v Bolina*, above n1.

¹⁵ *A Labour Inspector v Bolina*, above n1 at [58].

¹⁶ *Daleson*, above n5 at [33].

[75] The Respondents have no prior history of breaching minimum employment standards. The Respondents co-operated with the Labour Inspector's investigation and eventually accepted the alleged breaches had occurred.

[76] The Respondents have still not yet confirmed the reinstatement of Arti Rayait's and Shanese Sharland's annual holiday entitlements in accordance with s 28(4) of the HA03, as it was directed to do so in the Authority's consent determination dated 18 December 2025.¹⁷

Statutory Consideration 6 – Circumstances of the breach, and any vulnerability

[77] The Respondents were in business for a number of years and it was their responsibility to know and apply the relevant employment laws.

[78] Ms Kaur and Mr Bains were temporary AEWV holders, so they can be viewed as vulnerable employees to that extent. The seeking of premiums from them was egregious because they were not familiar with New Zealand employment law or minimum code protections. Ms Kaur and Mr Bains were dependent on Bolina for their visa status to remain current, which made them particularly vulnerable to Bolina's demands. This illustrated the imbalance of power the Respondents held in this case.

[79] The amounts of wage arrears owed were substantial for Ms Kaur and Mr Bains, and Bolina's record keeping breaches were systemic.

Statutory Consideration 7 – Previous conduct

[80] The Labour Inspector informed the Authority they were not aware of there being any previous interactions between the Respondents and the Labour Inspectorate.

Additional Consideration 8 – Deterrence

[81] The breaches in this case involved minimum standards. As such there is a need to 'bring home' to the Respondents the standards they were required to meet, and that they are not to be met merely when it is financially convenient for the employer or when the employer is put under pressure by the Labour Inspectorate to do so.¹⁸

¹⁷ A *Labour Inspector v Bolina*, above n1.

¹⁸ *Daleson*, above n5 at [39].

Additional Consideration 9 – Culpability

[82] There are a number of factors which increase the Respondents' culpability already set out above, including:

- (a) There were four workers who were adversely affected.
- (b) The two Complainants lost the use of the money they were entitled to at the time it became due and for over a year after that.
- (c) Record keeping breaches made it difficult for the Labour Inspector to properly calculate arrears.

[83] Ms Singh was considered to have a higher level of culpability for the premium breaches. That was reflected by the Authority reducing the penalty in Step 2(a) by 40 per cent for Bolina but only by 20 per cent for Mr Singh. This adjustment meant that the total penalty imposed on Mr Singh was not simply half of the total penalty that was imposed on Bolina.

Additional Consideration 10 – Consistency

[84] In the Authority's *FWP* determination (which involved gross arrears of \$108,618.93 and seven globalised breaches across the HA03, the MWA and the Act,) total penalties of \$91,000.00 were imposed on the first respondent (company employer) and \$45,500.00 against the second respondent (as a person involved in the employer's breaches).¹⁹

[85] In *RBM Communication Ltd*, the wage arrears owed amounted to \$31,876.96 owed to three employees. *RBM Communication* also involved the seeking of a premium from one employee. The Authority ordered total penalties of \$54,000.00 by the company, \$27,000.00 by one director, and \$9,000.00 by another director.

[86] In *RBM Communication Ltd* the Authority accepted the Labour Inspector's submissions that the adjusted total penalties, after consideration of the aggravating and ameliorating factors were \$218,400.00 against the first respondent company (reduced from \$480,000.00), \$109,200.00 against the second respondent director (reduced from \$240,000.00), and \$19,600.00 against the third respondent who was the director's brother and the Area Manager of the first respondent (reduced from \$40,000.00).²⁰

¹⁹ *LI v FWP & LEM*, above n9.

²⁰ *RBM Communication Ltd*, above n10 at [34] and [75].

[87] The penalties against the second and third respondents in *RBM Communication* were imposed on them as ‘persons involved in the breaches’ that had occurred. A ten per cent reduction to penalties occurred to reflect the respondents’ early cooperation with the Labour Inspector’s investigation, steps that were undertaken to ensure there was no further default, and that the company had maintained the employment of twelve employees during the Covid-19 pandemic.²¹

[88] In *Labour Inspector v E4 Records Limited*, the total arrears of \$8,842.08 related to three employees.²² The Authority in *E4 Records* imposed \$20,000.00 in penalties on the company, and \$5,000.00 on the director.

[89] In *A Labour Inspector v Woop Limited* a total penalty of \$39,000.00 was imposed on the respondent for 26 globalised breaches, which included breaches of s 6 of the MWA, ss 23, 27 and 28 of the HA03, ss 65 and 1340 of the Act. These breaches had affected seven employees.

[90] The Respondents’ circumstances in this matter are similar to those in *RBM Communication Limited*, given the volume of arrears, the seeking of premiums, and number of affected employees.

[91] After weighing the aggravating and mitigating factors outlined above including the eventual payment of the wage arrears, the Respondents’ acceptance of the breaches, and taking into account consistency with other cases, a further reduction has been applied in this case. The penalty assessment schedules in Appendix A of this determination reflect this assessment.

Additional Consideration 11 – Ability to pay

[92] The onus is on the Respondents to provide the Authority with up-to-date and accurate information in support of any submission that they would be financially unable to meet a potential penalty award. That has not occurred, so this is a neutral factor.

Additional Consideration 12 – Proportionality of outcome

[93] The level of penalties imposed need to be proportional to the severity of the breaches. The proportionality test requires some reduction in penalties payable to ensure the final penalty

²¹ *RBM Communication*, above n10 at [82]-[83].

²² *Labour Inspector v E4 Records Ltd* [2024] NZERA 771 at [68].

properly reflected the amount originally at issue, and the fact that the First and Second Respondents are closely related.

Proportionality of outcome in relation to the harm caused

[94] The attached schedules in Appendix A reflect penalties that are just and proportional, and which have regard to all of the factors considered above. These still reflect meaningful penalties that will act as a deterrent to these Respondents and to others who may be inclined to breach minimum code legislation.

[95] Appendix A reflects a generous discount for mitigating factors as well as a discount at the final stage in order to achieve a measure of consistency with other cases. Penalties of \$52,800.00 imposed on Bolina and \$27,840 imposed on Mr Singh personally as ‘a person involved in the breaches’ that occurred have been imposed on the Respondents for all of the agreed breaches that have occurred in this matter.

Should part of any of the penalties imposed be paid to the Complainants instead of the Crown?

[96] Penalties awarded by the Authority are usually required to be paid to the Crown bank account. However, section 136(2) of the Act provides the Authority with a broad discretion to order that the whole or part of any penalty recovered be paid to any person. The Labour Inspector sought an order that a portion be paid to Ms Kaur and Mr Bains pursuant to s 136(2) of the Act.

[97] That request is declined. Penalties are not meant to be a means by which to provide additional compensation to employees. Although the Complainants were adversely affected by the Respondents’ conduct the purpose of the penalties imposed in this determination has been focused on meeting the overall public interest in ensuring that minimum employment standards are maintained for all employees.

[98] There is an important public interest in protecting businesses who do comply with minimum code legislation, which has been put in place to protect employees, from the unfair competitive advantage gained by businesses such as Bolina which reduce their operating costs by failing to adhere to the same minimum standards regarding pay and other entitlements that

complying employers do. That approach is consistent with the object set out in s 3(ab) of the Act to promote effective enforcement of employment standards through the Authority.

[99] Accordingly, the full amount of the penalties imposed on each Respondent is to be paid to the Crown bank account.

What costs and disbursements should be awarded?

[100] The Labour Inspectorate as the successful party is entitled to a contribution towards its actual costs and it is entitled to be reimbursed for its actual disbursements.

What costs should be awarded?

[101] This matter has been treated as having involved one day of investigation time, which covered both the liability consent determination and this determination that has assessed penalties and costs, which have both been determined 'on the papers'.

[102] The notional starting point for assessing costs is therefore \$4,500.00, being the current notional daily tariff currently for the first day of an investigation meeting.

[103] The parties did not identify any grounds for adjusting the notional starting tariff and the Authority was not aware of any. Accordingly, the notional daily tariff of \$4,500.00 has been applied to the assessment of costs in this matter.

Disbursements awarded

[104] The Labour Inspector sought reimbursement of disbursements totalling \$2,757.95. This consists of \$2,686.40 incurred for transcription and translation of the Complainants' evidence plus \$71.55 to reimburse the Authority's filing fee. It is appropriate for the Respondents to repay the Labour Inspectorate for these disbursements.

Costs order

[105] The Respondents are ordered on a joint and several liability basis to pay the Labour Inspectorate \$7,257.95, consisting of:

- (a) \$4,500.00 contribution towards its actual legal costs.
- (b) \$2,686.40 to reimburse the transcription and translation costs it incurred.

- (c) \$71.55 to reimburse the Authority's filing fee.

Summary of outcome and orders

[106] Within 28 days of the date of this determination:

- (a) Bolina is ordered to pay total penalties of \$52,800.00 to the Crown bank account.
- (b) Mr Singh is ordered to pay total penalties of \$27,840.00 to the Crown bank account.
- (c) Bolina and Mr Singh, on a joint and several liability basis, are ordered to pay the Labour Inspectorate \$7,257.95 costs and disbursements.

Rachel Larmer
Member of the Employment Relations Authority

APPENDIX A

First Respondent: G & G Bolina Limited		
<i>Step 1: Nature and number of breaches - potential maximum penalties (following globalisation)</i>		
Failure to pay minimum wage in breach of s 6 of the MWA.	2 x \$20,000	\$40,000.00
Sought a premium in breach of s 12A of the WPA.	1 x \$20,000	\$20,000.00
Sought and received a premium in breach of s 12A of the WPA.	1 x \$20,000	\$20,000.00
Failure to keep accurate records in breach of s 81 of the HA03, s 130 and s 65 of the Act.	4 x \$20,000	\$80,000.00
Failures to provide public holiday pay in breach of ss 40, 50, 56, and 60 of the HA03.	2 x \$20,000	\$40,000.00
Failures involving annual holiday pay in breach of ss 23 and 28 of the HA03.	4 x \$20,000	\$80,000.00
	Subtotal	\$280,000.00
<i>Step 2(a): Aggravating factors as a proportion of maxima in Step 1</i>		
Failure to pay minimum wage in breach of s 6 of the MWA.	Less 50%	\$20,000.00
Sought a premium in breach of s 12A of the WPA.	Less 60%	\$8,000.00
Sought and received a premium in breach of s 12A of the WPA.	Less 50%	\$10,000.00
Failure to keep accurate records in breach of s 81 of the HA03, and s130 and s 65 of the Act.	Less 50%	\$40,000.00
Failures to pay public holiday entitlements in breach of ss 40, 50, 56, and 60 of the HA03.	Less 80%	\$8,000.00
Failures relating to annual holiday pay in breach of ss 23 and 28 of the HA03.	Less 70%	\$24,000.00
	Subtotal	\$110,000.00
<i>Step 2(b): Ameliorating factors (reducing aggravating factors subtotal)</i>		
Failure to pay minimum wage in breach of s6 of the MWA.	Less 40%	\$12,000.00
Sought a premium in breach of s 12A of the WPA.	Less 40%	\$4,800.00
Sought and received a premium in breach of s 12A of the WPA.	Less 40%	\$6,000.00
Failure to keep accurate records in breach of s 81 of the HA03, and s 130 and s 65 of the Act.	Less 40%	\$24,000.00
Failures of public holiday pay in breach of ss 40, 50, 56 and 60 of the HA03.	Less 40%	\$4,800.00
Failures of annual holiday pay in breach of ss 23 and 28 of the HA03.	Less 40%	\$14,400.00
	Subtotal	\$66,000.00
<i>Step 3: First Respondent's financial circumstances</i>		
No evidence provided, so no adjustment made.		
	Subtotal	\$66,000.00

Step 4: Proportionality		
Reduction from subtotal to ensure consistency with like cases, reflect overall culpability and achieve purpose of penalties (as per <i>Preet</i>)	Less 20%	\$13,200.00
Total globalised penalty imposed on First Respondent to be paid to the Crown	TOTAL	\$52,800.00
Second Respondent: Gurvinderpal Singh		
Step 1: Nature and number of breaches - potential maximum penalties (following globalisation)		
Failure to pay minimum wage in breach of s 6 of the MWA.	2 x \$10,000	\$20,000.00
Sought a premium in breach of s 12A of the WPA.	1 x \$10,000	\$10,000.00
Sought and received a premium in breach of s 12A of the WPA.	1 x \$10,000	\$10,000.00
Failure to keep accurate records in breach of s 81 of the HA03, s 130 and s 65 of the Act.	4 x \$10,000	\$40,000.00
Failures to pay public holiday entitlements in breach of ss 40, 50, 56 and 60 of the HA03.	2 x \$10,000	\$20,000.00
Failures relating to annual holiday pay in breach of ss 23 and 28 of the HA03.	4 x \$10,000	\$40,000.00
	Subtotal	\$140,000
Step 2(a): Aggravating factors as a proportion of maxima in Step 1		
Failure to pay minimum wage in breach of s 6 of the MWA.	Less 50%	\$10,000.00
Sought a premium in breach of s 12A of the WPA.	Less 60%	\$4,000.00
Sought and received a premium in breach of s 12A of the WPA.	Less 50%	\$5,000.00
Failure to keep accurate records in breach of s 81 of the HA03, and s 130 and s 65 of the Act.	Less 50%	\$20,000.00
Failures to pay public holiday entitlements in breach of ss 40, 50, 56 and 60 of the HA03.	Less 80%	\$4,000.00
Failures relating to annual holiday pay in breach of ss 23 and 28 of the HA03.	Less 70%	\$12,000.00
	Subtotal	\$55,000.00
Step 2(b): Ameliorating factors (reducing aggravating factors subtotal)		
Failure to pay minimum wage in breach of s 6 of the MWA.	Less 40%	\$6,000.00
Sought a premium in breach of s 12A of the WPA.	Less 20%	\$3,200.00
Sought and received a premium in breach of s 12A of the WPA.	Less 20%	\$4,000.00
Failure to keep accurate records in breach of s 81 of the HA03, and s 130 and s 65 of the Act.	Less 40%	\$12,000.00
Failures to pay public holiday entitlements in breach of ss 40, 50, 56 and 60 of the HA03.	Less 40%	\$2,400.00
Failures relating to annual holiday pay in breach of ss 23 and 28 of the HA03.	Less 40%	\$7,200.00
	Subtotal	\$34,800.00

<i>Step 3: Second Respondent's financial circumstances</i>		
No evidence provided, so no adjustment made.	Subtotal	\$34,800.00
<i>Step 4: Proportionality</i>		
Reduction from subtotal to ensure consistency with like cases, reflect overall culpability and achieve purpose of penalties (as per <i>Preet</i>)		
Reduce by 20%	Less 20%	\$6,960.00
Total globalised penalty imposed on Second Respondent to be paid to the Crown	TOTAL	\$27,840.00