

**IN THE EMPLOYMENT COURT
AUCKLAND**

**[2014] NZEmpC 13
ARC 29/13**

IN THE MATTER OF proceedings removed from the
Employment Relations Authority

BETWEEN MATAMATA INDUSTRIAL
MACHINERY LIMITED
Plaintiff

AND JON FITZGERALD KENNEDY
MCALLISTER
Defendant

ARC 48/12

IN THE MATTER OF an application for search order

BETWEEN MATAMATA INDUSTRIAL
MACHINERY IMPORTS LIMITED
("MIMICO")
Plaintiff

AND JON FITZGERALD KENNEDY
MCALLISTER
Defendant

Hearing: By notice of discontinuance filed by the plaintiff on 16 January
2014 and the defendant's consent to file notice of
discontinuance filed on 16 January 2014. Joint memorandum
of consent and draft order for permanent injunction filed on
16 January 2014

Appearances: Peter Hardy, counsel for plaintiff
Jon McAllister, defendant

Judgment: 11 February 2014

CONSENT JUDGMENT OF JUDGE M E PERKINS

[1] These proceedings have now been settled between the parties.

[2] The settlement has been effected upon the basis that the plaintiff is to discontinue the proceedings under ARC 29/13 and a notice of discontinuance has now been filed. There is no issue as to costs.

[3] In respect of proceedings ARC 48/12, it has been agreed that the interim injunction issued by the Employment Court dated 2 August 2012, is to be made a permanent injunction order but amended to include the company Crushing and Mining Supplies (NZ) Limited of which the defendant is the sole director, shareholder, (50 percent with his wife holding the remaining 50 percent) and employee. Accordingly the following orders are made by consent:

- (a) That the interim injunction order made by the Court and dated 2 August 2012 be made permanent and the prohibition from using, disclosing, reproducing or publishing any information that is derived from the plaintiff's confidential information (including that of Metso Minerals Australia Limited or any associated Metso companies) be extended to include not only the defendant but also the company Crushing and Mining Supplies (NZ) Limited (company number 3942420), and any employee of that company and any associated entity or person and otherwise in terms of the draft order attached to this judgment as appendix A;
- (b) That the undertakings as to damages provided by the plaintiff and dated 2 August 2012 are discharged;
- (c) That there is no issue as to costs between the parties.

[4] The draft order of the permanent injunction and related orders having been filed may now be sealed by the Registrar.

M E Perkins
Judge

Judgment signed at 3 pm on 11 February 2014

Appendix A

PERMANENT INJUNCTION

To: Jon Fitzgerald Kennedy McAllister of 3 Grant Place Matamata 3400

And to: Crushing and Mining Supplies (NZ) Limited, a duly incorporated company having its registered office at 3 Grant Place Matamata 3400

1. This Order is a Permanent Injunction which has been made by the Employment Court at Auckland by consent of the parties for the benefit of the Plaintiff, Matamata Industrial Machinery Imports Limited (“MIMICO”) and permanently prohibits the Defendant Jon Fitzgerald Kennedy McAllister of 3 Grant Place Matamata and the company Crushing and Mining Supplies (NZ) Limited (company number 3942420) of which the Defendant is the sole Director and a shareholder and an employee and any associated person or entity from: using, disclosing, reproducing, or publishing any information that is derived from the Plaintiff’s confidential information (including that of Metso Minerals Australia Limited or any associated Metso companies) which is not publically available information and which the Defendant obtained during the course of his employment with the Plaintiff.
2. For the purposes of this Order “Confidential Information” includes but is not limited to the following: pricing information, technical drawings and data, designs, metallurgical recipes.
3. That by consent of the Parties the Plaintiff shall not be required to provide an Undertaking as to Damages to be provided by the Plaintiff.
4. That there is no issue as to costs.

Dated This 11th Day of February 2014

Registrar The Employment Court at Auckland

Sealed: This 11th Day of February 2014