

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI  
ŌTAUTAHI ROHE**

[2026] NZERA 64

3394364

BETWEEN                      PETER THOMAS FINEGAN  
Applicant

AND                              MICHAEL JAMES BARR  
Respondent

Member of Authority:              Antoinette Baker

Representatives:                      Applicant in person  
Kimberley Jarvis, for Respondent

Investigation Meeting:              23, 24 September 2025

Last information received:              6 November 2025

Determination:                          10 February 2026

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**DETERMINATION OF THE AUTHORITY**

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**Anonymisation of names**

[1] I invited written submissions in relation to non-publication and received these. Mr Finegan opposed non-publication. The respondent, did not oppose but did not seek it. I considered these submissions.

[2] While I do not order non-publication, I have not identified a non-party 'group' being a business group I will refer to by using the random letter of H or 'H group'. I also do not identify the one summonsed witness who is the sole director of Mr Finegan's former employer, his employment subsequent to ending his employment with the respondent. While I have named other witnesses, the summonsed witness did not choose to appear in these proceedings. I need to reference things in this determination that relate to a different

employment relationship the end of which is apparently disputed and is not being investigated here. Accordingly, I use randomly selected letters to identify the summonsed witness as XP and its associated corporate entity as X Ltd.

### **Employment Relationship Problem**

[3] This is an application for penalties for alleged breaches of a Record of Settlement (ROS) under s 149 of the Employment Relations Act 2000 (the Act) against the respondent, Mr Barr. The parties to the ROS are the applicant, Mr Finegan and his former employer, the Electrical Contractors Association of New Zealand, also known as Master Electricians (ME). Mr Barr is not a party to the ROS but is an elected Board member of ME. ME is a registered incorporated society with an elected board that governs the body as set out in its constitution.<sup>1</sup> A non-party can be in breach of an ROS and be subject to a penalty as ‘any person’ under s 149(4) of the Act.

[4] Mr Finegan claims that Mr Barr breached the ROS in relation to agreed terms of confidentiality (the existence of the ROS to be kept confidential) and non-disparagement. He says he was disparaged by things Mr Barr said to the sole director of his subsequent employer about him. Mr Barr has dual links to ME (as elected Board member), and H group (business ownership interests). H group had a long standing commercial relationship with Mr Finegan’s subsequent employer, X Ltd. Mr Finegan says that Mr Barr and at least one other with dual links told his subsequent employer that an ME reference for Mr Finegan was a ‘lie’ and that if it employed Mr Finegan to deliver its services to H or continued to employ him, the long standing commercial contract would end. Mr Finegan says the breaches adversely affected his relationship with his subsequent employer, X Ltd and its sole director, XP, to the effect he resigned. He also believes the breaches will affect his ability to gain further employment.

[5] Mr Finegan also brings an application for penalties for the same breaches of the same ROS under s 149(4) of the Act against ME (the associated employer application). I have also determined<sup>2</sup> the associated employer application today having heard both applications together.

[6] Mr Barr defends the applications for breaches and subsequent penalties against him personally. While Mr Barr has acknowledged telling Mr Finegan’s subsequent employer

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<sup>1</sup> NZBN 9429042778875. <https://app.businessregisters.govt.nz/sber-businesses/>

<sup>2</sup> [2026] NZERA 63

(when asked) that he would not, as part of his own business in G group, employ Mr Finegan he says this was a comment with his 'H group' hat on and not as a member of the ME Board. He says in the latter role he had no knowledge of the existence of the ROS until these proceedings and therefore could not have breached its terms.

### **The Authority's Investigation process**

[7] Mr Finegan initially lodged a claim against ME. At a phone conference call, Mr Finegan explained that he wanted to also bring a claim against Mr Barr or something to this effect. This was initially included in the body of his initial statement of problem and in his explanation to me in the call. I indicated that he had not commenced proceedings for a penalty against Mr Barr (if that is what he sought) and this is a required starting point<sup>3</sup>, something that has to occur within 12 months<sup>4</sup>. These things were reflected in my subsequent written Directions after the phone conference call. Mr Finegan then lodged these penalty applications against Mr Barr personally. I directed both matters be heard together given the duplication of most of the facts and witnesses. Mr Barr was then separately represented and called evidence from a further witness, Mr Ewart, CEO of H Group being also someone with business interests in H Group including co-directorship with Mr Barr.

[8] Mr Finegan sought to summons several witnesses. Of those he requested, all except two were to be witnesses for the respondent or ME. I did not consider one witness of the two remaining on Mr Finegan's list to be of assistance to my investigation. I summonsed<sup>5</sup> the other, the above referred to director (XP) of Mr Finegan's subsequent employer X Ltd. XP appeared at the investigation meeting and answered questions on oath in this and the associated application.

[9] I held an investigation meeting over one and a half days to hear both this and the associated application. Written briefs of evidence were lodged from Mr Finegan, Mr Barr, Ms\ Vranjac-Wheeler (CEO of ME and signatory to the ROS), and Messrs Kennedy and Ewart both having business interests in H group. Mr Kennedy is also someone with long standing involvement mostly at a regional level in ME. I asked questions of all witnesses on

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<sup>3</sup> Employment Authority Regulations 2000, regs 5 and 27.

<sup>4</sup> As above and Employment Relations Act 2000, 135(5).

<sup>5</sup> Employment Relations Act 2000, schedule 2, clause 5.

oath or affirmation. Mr Finegan and respective counsel on both applications also had this opportunity.

[10] I received written submissions after the investigation meeting. Mr Finegan was provided a timetabled opportunity to a reply to submissions from respective counsel. I considered this fair to the unrepresented Mr Finegan. He was contacted about this by the Authority, the second time was in the afternoon of 5 November 2025. Mr Finegan gave no response. By 6 November 2025 I took this to mean that my final information was that Mr Finegan did not intend to provide a right of reply in addition to his written submissions already provided. I then reserved my determination.

[11] This determination states findings and makes conclusions as necessary to bring an end to the employment relationship problem before me. It has not recorded all evidence and submissions received.<sup>6</sup>

## **Issues**

[12] The following issues are to be determined:

- a. Did Mr Barr breach the terms of the ROS in relation to confidentiality and non-disparagement?
- b. If so to any or all of the above, what if any penalties should be ordered?
- c. If penalties are ordered what if any part of these are to be paid to Mr Finegan?
- d. Are any costs to be ordered?

## **Did Mr Barr breach the terms of the ROS in relation to confidentiality and non-disparagement?**

[13] It is clear that three people connected to H group attended a ‘mini conference’ for H at which XP for X Ltd was a speaker and unexpectedly introduced Mr Finegan as the new employee for X Ltd, X Ltd’s prior consultant’s replacement who delivered its services to H Group.

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<sup>6</sup> As permitted by s 174E of the Employment Relations Act 2000 (the Act).

[14] The evidence around what was then said to XP by three attendees Messers Ewart, Barr and Kennedy and to each other at or after the conference focuses on things that were said in relation to Mr Finegan as a result of them being X Ltd's 'new employee' and in terms of Mr Barr and Mr Kennedy that Mr Finegan was not a 'good fit', Mr Ewart simply that H group wanting to retain the former consultant who was a 'good fit.'. There is insufficient evidence to show me that any of these people told XP there was an ROS at the end of Mr Finegan's employment within ME. Consistent with this is also their evidence that XP was repeatedly calling some of them asking for the reason why Mr Finegan's employment ended at ME. This evidence is consistent with the meeting that XP invited Mr Finegan to after the H group conference (of which I have a transcript and recording). That meeting soon after the H group 'mini conference' shows me a persistent line of what could reasonably be interpreted as repeated questioning by XP. He repeatedly asks Mr Finegan about how his employment ended at ME and refuses to say what he had been told and by who. That recording and transcript includes Mr Finegan saying he could not tell XP about the end of his ME employment and then eventually (under what I conclude was repeated pressure from XP) confirmed he had entered a ROS but could not tell XP anything about this. XP continues in the transcript to not accept they could not be told about what the 'non-disclosure' document was. The recording and transcript does not support that someone had told XP there was a ROS in place or what its contents were.

[15] To the extent of Messrs Ewart and Kennedy I find neither was close enough related to the employment of Mr Finegan with ME to have been expected to have known about the ROS. I turn then to consider whether Mr Barr was told about the ROS and in turn told XP for X Ltd or anybody else.

[16] Mr Barr was on the Board of ME, an entity with a constitution that refers to the Board having a governance role. His evidence is that he knew nothing about the ROS and therefore its terms. This is supported by the then new CEO of ME, Ms Vranjac-Wheeler who explained plausibly her firm understanding that she was not required to tell the board about the ROS. I am less satisfied that her delegations relating to settling financial matters without reference to the Board fully covers this situation however I found her evidence included her genuine understanding that she did not need to tell the Board members about the ROS including as I

understood her evidence the Chair and President of the Board. Based on this I find that Mr Barr was not likely aware of the existence of the ROS.

[17] While Mr Finegan says XP told him that Mr Barr disclosed there was a record of settlement and refers to multiple discussions with XP about this, I found XP vague in his answers about this. I have the above referred transcript which gives some firsthand indication of what XP and Mr Finegan said to each other when XP appears to have first approached Mr Finegan about what they had 'heard' about him at or after the H Group conference. I do not accept that XP told Mr Finegan in this meeting that Mr Barr was the one who disclosed there was a ROS. Mr Finegan in that meeting raises Mr Barr's name saying he is 'assuming' that is who disclosed matters to XP. He references a past complaint to ME against Mr Barr as a Board Member which in his other evidence he still remains of the view that ME's dismissal of that complaint was not correct. That matter was some time previous to this meeting, and I accept as likely Mr Barr's evidence that being based on another part of the country his path had not crossed much with Mr Finegan through ME much since that time. I accept that the connection was one Mr Finegan to Mr Barr in that meeting. I can understand why he was effectively second guessing due to the repeated refusal of XP to explain what was being said about Mr Finegan to them and who said it. I find that this meeting content does not counter Mr Barr and Ms Vranjac-Wheeler's straight forward evidence that Mr Barr and other ME board members were not told about the fact of the ROS and had no copies disclosed to them.

[18] While I have before me one liner brief references in ME Board minutes which refer to costs for employment issues with Mr Finegan, including a reference to 'grievance' there is nothing referenced about a ROS. Again I prefer Ms Vranjac-Wheeler's evidence that she needed to seek approval for further expenditure in relation to 'employment matters' that was managing in relation to Mr Finegan, matters that Mr Finegan in his oral evidence did not want disclosed to the Board.

[19] Based on the above, the application based on a breach of the confidentiality terms of the ROS against Mr Barr is unsuccessful. Mr Barr could then also not have known about the non-disparagement term as a result of this. Therefore, even though he acknowledges he told XP he would not employ him, and even though this type of comment has been found to be disparaging, I find the connection to the ROS is lost because Mr Barr was unaware of the

ROS and its terms. In these circumstances Mr Barr is not found in breach of the ROS and I have will not continue to consider the penalty applications against him.

### **Outcome**

[20] The penalty applications against Michael James Barr under s 149(4) of the Employment Relations Act 2000 brought by Peter Thomas Finegan in relation to alleged breaches of the Record of Settlement between Peter Thomas Finegan and The Electrical Contractors Association of New Zealand are unsuccessful.

### **Costs**

[21] Mr Finegan has not been successful in his applications against Mr Barr personally. He was self-represented throughout. Mr Barr was legally represented in this application. An unsuccessful party may face a claim for a contribution towards legal costs. The parties are encouraged to resolve costs if they are an issue. In the event a determination on costs is required, Mr Barr may lodge, and then should serve, a memorandum on costs within 28 days of the date of this determination. From the date of service of that memorandum Mr Finegan will then have 14 days to lodge any reply to memorandum. On request by either party, an extension of time for the parties to continue to negotiate costs between themselves may be granted.

[22] The parties are reminded that they can anticipate the Authority will determine costs if asked to do so, on its usual ‘daily tariff’ basis unless circumstances or factors, require an adjustment upwards or downwards. Information this approach can be found on the Authority website.<sup>7</sup>

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<sup>7</sup> [www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1](http://www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1)

Antoinette Baker  
Member of the Employment Relations Authority