

**IN THE DISTRICT COURT
AT AUCKLAND**

**I TE KŌTI-Ā-ROHE
KI TĀMAKI MAKĀURAU**

**CIV-2025-092-000191
[2025] NZDC 30026**

BETWEEN

COMMERCE COMMISSION
Plaintiff

AND

MIRA SINGH
Defendant

Hearing: 9 December 2025

Appearances: J Barry and O Kazmierow for the Plaintiff
S Kumar for the Defendant

Judgment: 9 December 2025

ORAL JUDGMENT OF JUDGE DAVID J CLARK

Introduction

[1] The New Zealand Commerce Commission (the Commission) has applied for orders under s 16(4) of the Contempt of Court Act 2019 seeking a warrant committing Mr Singh to a term of imprisonment.

[2] It does so because it says Mr Singh has breached undertakings and orders which have been agreed to by Mr Singh and made by this Court. Mr Singh, to his credit, has accepted that he has failed to comply with his undertakings and the orders which have been made and, therefore, is in contempt.

Background

[3] Mr Singh is the sole director of a company called Aero Fire (NZ) Sales and Service Limited (Aero Fire). Through Aero Fire Mr Singh supplied fire safety equipment to retailers which included the sale and servicing of fire extinguishers.

[4] Proceedings were brought by the Commission to stop him from trading in this industry. It is unnecessary for the purposes of this judgment to go into the details as to why that was necessary given the acceptance by Mr Singh, he needed to desist from being involved in the industry.

[5] This acceptance by Mr Singh initially took the form of undertakings which provided he would:

- (a) Remove Aero Fire from the Companies Register;
- (b) Would not be directly or indirectly involved in the supply of fire safety equipment including the sale of fire extinguishers; and
- (c) Would not be directly or indirectly or knowingly be involved in offering services in connection with any fire safety equipment.

[6] These undertakings were agreed on 19 March 2020.

[7] The Commission remained concerned with Mr Singh's conduct and compliance with his undertakings. It investigated him between 2020 and 2022. It gathered sufficient evidence which established during this time Mr Singh continued to act as the director of Aero Fire and did not remove the company from the Companies Register; that he was continuing to sell and service fire extinguishers and; Mrs Singh (who also provided undertakings) continued to be involved in assisting Mr Singh in selling and providing fire safety services.

[8] On 4 August 2022 the Commission filed an application in the Manukau District Court seeking to enforce the terms of the undertaking. On 18 January 2023, the Court, after assessing the evidence produced, confirmed it was satisfied the undertakings had been breached. Her Honour, Judge A Sinclair, made the following orders against Mr and Mrs Singh:

- (a) That they must comply with the terms of the undertakings;

- (b) Within 4 weeks they needed to provide the Commission with a list of customers supplied with the goods or services in breach of the undertakings.

[9] Following the making of these orders the Commission remained concerned about Mr Singh's willingness to comply with the orders made. It was justified in doing so because again the Commission gathered evidence which established Mr Singh continued to be involved in the sale of fire safety equipment and continued to offer services connected to the servicing of such fire equipment. Evidence was gathered from various owners and/or employees of retail outlets confirming Mr and Mrs Singh's ongoing involvement.

[10] As a result of the evidence which had been gathered this application was filed by the Commissioner. As I have indicated above, and to his credit, Mr Singh quickly accepted he had been in breach of the undertakings and the orders which had been made by this Court. The result of his admission has avoided the necessity of a defended hearing, but means the focus now is on what options are available to the Court to deal with the contempt which has been admitted.

Legal Principles

[11] Section 16 of the Contempt of Court Act 2019 (the Act) provides in full:

16 Certain court orders and undertakings may be enforced

- (1) This section applies to—
 - (a) any interim or final order, decision, decree, direction, or judgment of a court (a court order) to do or abstain from doing something, except as provided in section 17:
 - (b) any undertaking given to the court if, on the faith of the undertaking, the court has sanctioned a particular course of action or inaction.
- (2) A court may enforce the court order or undertaking against the party, non-party, or other person bound by the order or undertaking by taking action provided for in subsections (3) and (4) on application by—
 - (a) the party who sought the order or undertaking being enforced;
or

- (b) a person who benefits from, or has an interest under, the order or undertaking; or
 - (c) the Solicitor-General, if the Solicitor-General is satisfied that there is a high degree of public interest in enforcing the order or undertaking.
- (3) The court—
 - (a) must not proceed further under this section unless it is satisfied that other methods of enforcing the court order or undertaking have been considered and are inappropriate or have been tried unsuccessfully; and
 - (b) if so satisfied, must make a finding as to whether it is proved beyond reasonable doubt that—
 - (i) the court order or undertaking being enforced has been made in clear and unambiguous terms and is clearly binding on the person; and
 - (ii) the person had knowledge or proper notice of the terms of the court order or undertaking being enforced; and
 - (iii) the person has, without reasonable excuse, knowingly failed to comply with the court order or undertaking being enforced.
- (4) On finding beyond reasonable doubt that the requirements of subsection (3)(b)(i) to (iii) are met, the court may—
 - (a) do any of the following:
 - (i) issue a warrant committing the person or a director or an officer of the body corporate, as the case may be, to a term of imprisonment not exceeding 6 months;
 - (ii) impose a fine,—
 - (A) in the case of an individual, not exceeding \$25,000; or
 - (B) in the case of a body corporate, not exceeding \$100,000;
 - (iii) order the individual or a director or an officer of the body corporate, as the case may be, to do community work, not exceeding 200 hours, as the court thinks fit:
 - (b) if the court is the High Court, make a sequestration order in accordance with the rules of court.
- (5) An applicant may apply under subsection (2) on 1 or more occasions to enforce the same court order or undertaking, and the court may take

further action under subsections (3) and (4) as it thinks necessary to enforce the order or undertaking.

- (6) Any enforcement action under this section does not operate to extinguish or affect the liability of the person to comply with a court order or an undertaking.

[12] Counsel are in agreement s 16(1) has been satisfied and that under s 16(4) of the Act, Mr Singh may be; imprisoned for a period not exceeding six months; have a fine imposed on him which does not exceed the sum of \$25,000; or order Mr Singh to undertake community work which does not exceed 200 hours.

Mr Singh's Health Issues

[13] Mr Singh has filed two affidavits which set out the reasons why he was in contempt of the orders. In summary the breach was driven for financial reasons and his health issues. [REDACTED]

[REDACTED]

[14] He says then because of these issues he is in no position to work in the industry even if he wanted to. However, he also makes it plain that he now understands the impact of the orders and has no desire to return to the industry at all.

[15] His affidavit also sets out in some detail his financial status which in summary can be described as impecunious. Although there is a property (the family home) this is owned by a trust, and he is not a trustee. No information however is provided as to whether he is a beneficiary and has access to this asset. I will return to this position later in this judgment.

[16] The thrust of Mr Singh's affidavits however is that he is seeking the Court to be compassionate because of his health issues and financial status. [REDACTED]

[17] As I understand from the evidence¹ he now spends a lot of his time in Fiji seeking alternative medication. Again, I will return to this position later in this judgment.

Submissions for the Commission

[18] Mr Barry, recognising Mr Singh's medical condition, accepts imprisonment of Mr Singh in his current condition may be disproportionate to the contempt which has clearly been made out. However, in working through the various options which are available, none appear to be ideal in terms of Mr Singh's circumstances. Each of them are problematic in their own way with a fine unlikely to be paid and his medical condition unlikely to allow him to provide any form of community work. Accordingly, each option which is available does not fit the circumstances of Mr Singh's contempt.

[19] On that basis, Mr Barry submits the court is entitled to take a longer view in terms of the application and any outcome which may arise from it. The purpose of bringing these enforcement proceedings is balancing the issue of public health and safety (which he accepts the risk is now low given Mr Singh's physical circumstances) but the need to also ensure Mr Singh understands the breaching of court orders is not to be trifled with and there should be consequences in respect of the same.

[20] Ultimately however the Commission simply seeks compliance with the court orders and a continuing monitoring that such will be done. Mr Barry says this may be possible by the Court adjourning the matter to allow ongoing monitoring to occur and treat this matter as being part-heard. In doing so he points to District Court Rule 7.35 of the District Court Rules 2014 (DCR) where a Court may adjourn proceedings at any time and submits this is appropriate in the special circumstances of this case.

[21] Finally, he submits if the Court was not minded to grant a period of adjournment then the next best option is the imposition of a fine. On that basis he

¹ Mr Singh was not in court today as he is in Fiji.

suggests that the maximum fine of \$25,000 is appropriate with 50 per cent of that fine credited towards the Commission under s 18 of the Act.

Submissions for Mr Singh

[22] Mr Kumar suggested that the contempt may be purged by issuing a warrant for Mr Singh under s 16(4)(a)(i). However, at the same time the Court issues a concurrent order under s 20(3) of the Act which effectively discharges the warrant thus issued. In this way Mr Kumar suggests this will clearly signal to Mr Singh the contempt has been made out, is not to be trifled with and will give him fair warning no further breaches will be tolerated.

[23] If the Court was not minded to impose such orders then Mr Kumar agrees the suggestion of adjourning the hearing is the next best option. He does point out however that in terms of timeliness, by allowing this matter to become protracted is not in the best interests of either party.

Analysis

[24] I am told by counsel that this is the first time sub part 4 of the Act² has been used for the enforcement of a breaches of any civil orders. There is then a lack of any legal authorities which have dealt with the different options which are available under s 16 especially where the circumstances of the defendant justify different considerations which the three options provide.

[25] I accept then the submissions from both Mr Barry and Mr Kumar the options are not an ideal fit for Mr Singh's transgressions. My initial inclination is that I wanted the matter to be disposed of today as further delays to monitor any improvements of health or otherwise or monitor compliance with the undertakings and court orders do not advance any notion of timeliness in terms of disposal of this application.

[26] However, working my way through each of the options I agree a delay in the final determination of this matter is the only outcome which is reasonably available.

² Dealing with the enforcement of certain judgments or orders.

In doing so, I accept that Mr Singh's poor health, is significant and is something which needs to be proportionately considered against all options.

[27] I accept then imprisonment would be a disproportionate outcome for his contempt. Having said that however, I make it clear that if Mr Singh was not suffering from these medical issues, I would have had little hesitation in imposing a term of imprisonment. This is because he flagrantly disobeyed his own undertakings and the subsequent orders which were made by Judge Sinclair. He needs to understand that once court orders are made, he needs to follow them. I would have imposed, based on the level of his offending and his disregard for such orders, a period of imprisonment close to the six-month maximum.

[28] In deciding the above I do note that Mr Singh is in Fiji. Whilst of course it is open for Mr Singh to seek treatment in any form that he wishes to do so, the fact is a serious application has been made which was accepted by Mr Singh in terms of his contempt. He needed then to be in Court today for the Court to be satisfied it had the best information available in terms of the options which needed to be imposed. The fact that he is absent today has not helped matters.

[29] In terms of the other options, I decline to impose the suggestion made by Mr Kumar. This option, whilst complying with the provisions of the Act, achieves little in terms of a desired outcome. If the Court issues a warrant, then it will be acted upon by a police constable. That police constable, upon arresting Mr Singh will take Mr Singh to a local police station and then ultimately to the District Court. At some point in time Mr Kumar will then turn up with the discharge order made under s 20(3) of the Act requiring his immediate release. There would have been a significant waste of police resources if this was the outcome. I am not prepared to do this and impose further unnecessary work on an already overburdened Police Service.³

[30] I have also considered the imposition of a fine. Mr Singh's own evidence suggests he is impecunious. Although the Commission has some doubts on this evidence, ultimately it accepts there is significant debt where Mr Singh has either

³ I would add the likelihood of Mr Singh being arrested would be when he next comes through the New Zealand border. Not only would I be engaging Police Services but no doubt Customs as well.

chosen not to pay or has no ability to pay. The imposition of a further fine under s 16(4)(ii) would see little if any of that fine paid.

[31] In saying this, I do have some residual concerns about Mr Singh's access to money given no information is provided as to whether he is a beneficiary of the trust or whether the trust is prepared to support him. I find this unusual because he does depose the trust does have a reasonably high mortgage. It seems unusual he would be sharing this information but not what the value of the house is or whether he has access to any trust funds. Ultimately, I put this to one side simply because there is little I can do about this without more information and the imposition of a fine is likely to end up being nothing more than a "paper judgment".

[32] Finally, I also agree because of Mr Singh's medical condition, community service work is also inappropriate.⁴

[33] That leaves me with Mr Barry's submission an adjournment is necessary which does give an ad hoc ability to effectively monitor compliance. I am prepared in these circumstances to adjourn this proceeding part-heard and direct the matter should be called again in a case management conference in three months' time. At that conference the Commission can update its monitoring of Mr Singh and inform the Court as to whether it considers further monitoring is necessary.

[34] I direct Mr Singh is to file an affidavit not later than 14 days before the case management hearing setting out how his health is progressing and what steps he is taking to deal with his health issues. Any further directions can then be made by the duty judge as to any further monitoring. That may include a further adjournment, but I do say it will not be desirable for monitoring to continue on an indefinite basis. At some point this application will need to be brought to an end, but as I say, that will be for the duty judge to determine.

⁴ What is not available to me because of the prescriptive provisions of s 16, is whether there could be any form of penalty which could be imposed (such as supervision and/or judicial monitoring, home detention) which would otherwise be available under the Sentencing Act 2002. Given the circumstances of this case (which may be a situation which will continually arise in the future) a wider suite of options under s 16 could be included by the legislators.

[35] As there has been no final determination on this application and given the application may ultimately be withdrawn by the Commission, I reserve costs at this stage.

Suppression

[36] Mr Kumar has applied to seek suppression of all details of this case pending any final outcome of this matter. He makes a valid point. This judgment is effectively done on an interim basis, and as I note, if compliance is maintained, the application may be withdrawn by the Commission.

[37] Mr Barry accepts there are personal details which I have quoted in the judgment about Mr Singh which he agrees are sensitive and should not be publicly disclosed. However, he urges the Court that the judgment should be available to be published especially given it is one of the first cases where enforcement action has been taken in respect of civil orders under sub part 4 of the Act.

[38] Considering all matters, I agree the judgment should be published however I redact any parts of this judgment where I have quoted Mr Singh from his affidavit.⁵ That part of the judgment only is suppressed.

Judge D J Clark

District Court Judge | Kaiwhakawā o te Kōti ā-Rohe

Date of authentication | Rā motuhēhēnga: 19/12/2025

⁵ On reading the typed judgment this will apply only to paragraph [16] of this judgment