

In the matter of: The Constitution of the Institute of Financial Advisers Inc. and its By-laws

and

In the matter of: Charges referred for hearing by the Disciplinary Tribunal

Between: The Institute of Financial Advisers Inc.

and:

“E”, a Member

Final determination of the Disciplinary Tribunal as to costs and publication

(Dated 7 February 2011)

Disciplinary Tribunal:

Anthony N Frankham (Chairman)

Robert Narev

Karl Schweder

Final determination of the Disciplinary Tribunal

[1] By interim determination dated 17 December 2010 the Tribunal set out the circumstances and detail of this case and, from its consideration of the evidence and submissions, found that the costs comprising the submission for an order recovering \$77,673 have not been demonstrated by the prosecution to be reasonable. The Tribunal deferred making a determination on the quantum of costs to be ordered for recovery until the outcome of a Law Society review proposed by the Member's counsel was known.

[2] By joint memorandum dated 27 January 2011 counsel for the parties advised the Tribunal that following a reduction in the quantum of legal costs rendered by counsel for the prosecution and the consequent reduction of costs sought for recovery from the Member, the Member no longer seeks a review of those costs or asserts they are unreasonable. Counsel noted that "E" continues to maintain the further arguments about costs made by her in submissions already filed. The costs sought for recovery by the prosecution now total \$61,938.15 inclusive of GST.

[3] The Tribunal addressed the arguments made on behalf of the Member in its Interim Determination and this Final Determination should be read in conjunction with that decision.

[4] Having reviewed the joint memorandum and the issues the Tribunal now makes the following determinations with regard to costs and publicity additional to the order for censure already made.

Orders of the Tribunal

1. THAT "E", being a member of the Institute of Financial Advisers who has pleaded guilty to charges relating to breaches of the rules and by-laws of the Institute and has been censured, having regard to the circumstances of this case, the Tribunal's findings and the Member's circumstances referred to in an Interim Determination dated 17 December 2011, the Member be ordered to pay the costs of the Institute in investigating and bringing the charges to the adjudication of this Tribunal in the amount of \$61,938.15 GST inclusive .

Subject to the provisions relating to default in payment of instalments, this amount may be paid to the Institute over a period of 24 months by monthly instalments of not less than one twenty-fourth of the total each until the full amount is paid. The first of such instalments shall be due by 28 February 2011 and monthly thereafter. During the period allowed for payment Rule 10 of the IFA Constitution shall apply; viz.

Any notice of resignation given after any complaint is lodged against the Member or after any disciplinary proceedings are commenced against the Member shall not take effect until the hearing of the complaint or the disciplinary proceedings and

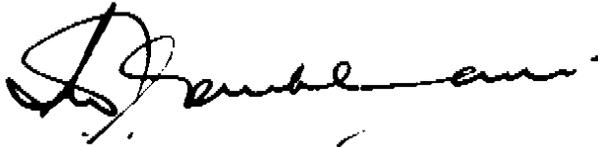
related appeals have been disposed of and any resulting action or disciplinary measure, fine or penalty has been settled.

This order is made with the proviso that if any part of the balance under the instalment arrangement becomes more than one month in arrears; the full amount still owed becomes due and payable as a debt immediately due and payable to the Institute;

and

2. THAT with regard to publicity, this Final Determination is to be made available to the complainants on a confidential basis with disclosure of the Member's name. The Interim Determination and the Final Determination excluding all reference to the Member's identity and location are to be published in full on the Institute's website pages that are accessible to the public. Any other report by the Institute on these determinations of the Tribunal shall advise that the Tribunal's full decisions are available on the Institute's website.

By Order of the Tribunal

A handwritten signature in black ink, appearing to read 'Anthony Frankham', written in a cursive style.

Anthony Frankham,

Chairman

7 February 2011