

FINANCIAL SERVICES TRIBUNAL

IN THE MATTER OF THE *FINANCIAL INSTITUTIONS ACT*,
R.S.B.C. 1996, c. 141 as amended (the "Act")

BETWEEN

TAK KUN FUNG, MANAGING BROKER, ROYAL PACIFIC REALTY
(KINGSWAY) LTD.

And

ROYAL PACIFIC REALTY (KINGSWAY) LTD., BROKERAGE

APPELLANTS

AND

REAL ESTATE COUNCIL OF BRITISH COLUMBIA

RESPONDENT

APPEAL DECISION

BEFORE: JOHN E. D. SAVAGE, Presiding Member

APPEARANCES: KELLY A. MURRAY, for the Appellants
JEAN P. WHITTOW, for the Real Estate
Council of British Columbia

DATE OF DECISION: July 31, 2007

I. Introduction

- [1] This appeal concerns two issues. The first issue is whether, in the circumstances of this case, an adjournment ought to have been granted to allow evidence from the managing broker and the principal of the real estate company. The second issue concerns whether the findings of the Real Estate Council against Tak Kun Fung (“Fung”) and Royal Pacific Realty (Kingsway) Ltd. (“Royal Pacific”) were reasonable. Pei Fu Ton (“Ton”) was found negligent in handling a transaction. Fung was the managing broker and also found negligent.
- [2] With respect to the first issue, the remedy requested is that the decision of the Real Estate Council be set aside and a new hearing held before a different panel of the Real Estate Council. With respect to the second issue, the remedy requested is that the decision of the Real Estate Council be found to be unreasonable and be set aside.

II. Adjournment Issue

- [3] The matter that is the subject of the proceeding took place in 2004. The issue regarding notice of the hearing arises in respect of the hearing held November 14 and 15, 2006. These dates were set after an earlier hearing had been adjourned.
- [4] An adjournment request was received on the day of the hearing by Andrew Peck who is a director of Royal Pacific Realty. The adjournment request arose because of an alleged failure to have notice of the hearing. The adjournment request was denied.
- [5] On or about July 10, 2006, counsel for the Real Estate Council sent a letter to Pei Fu Ton (“Ton”) advising of the rescheduled hearing dates. The letter included a request for acknowledgement, and the letter was duly acknowledged by the Representative.
- [6] The letter of July 10, 2006 containing the notice refers to the respondents as being “Royal Pacific Realty (Kingsway) Ltd. (X025459)”, “Ton, Pei Fu (079583)” and “Fung, Tak Kun (061329)”. It sets the hearing dates as November 14 and 15, 2006 commencing at 9:30am.
- [7] On the same date, counsel for the Real Estate Council sent a similar letter to Fung and Royal Pacific. The letter included a request for acknowledgement, but the letter was not acknowledged nor was the letter returned undelivered. According to a submission from counsel, Fung does not recall receiving the letter.
- [8] Copies of these two letters were sent to the attention of Andrew Peck (“Peck”). These letters were not returned as undelivered. All three letters were sent to the same address, that of Royal Pacific Realty (Kingsway) Ltd. at 3107 Kingsway, Vancouver, BC, V5R 5J9. While Peck is described as a principal of Royal Pacific

the records filed at the hearing indicate that both Fung and Peck are officers and/or directors of Royal Pacific (Ex. 2, page 165). Counsel for Fung and Royal Pacific acknowledged that Fung was a director of Royal Pacific.

- [9] At the hearing counsel for the Real Estate Council had this exchange with the Representative:

“Ms. Ton also confirmed for me this morning that she talked to Mr. Fung about this notice after receiving it on or about July 10th and confirmed what she should do before returning to me on July 20th. Is that again correct, Ms. Ton?”

MS. TON: Yes.

MR. VERHOEVEN: You spoke to Mr. Fung about this?

MS. TON: Yes.”

- [10] Peck had been involved in preparing responses to the allegations but Peck was not the Managing Broker nor otherwise involved. He said it was his practice to do this, a practice of which the Real Estate Council took umbrage.

- [11] Prior to the scheduled hearing the Real Estate Council provided copies of documents relevant to the hearing in two separate mailings. It is not suggested these were not received.

- [12] On November 7, 2006 the Real Estate Council sent books of documents to the Representative and Fung. These were some of the documents previously sent organized into a book for convenience at the hearing. The cover letter referenced the hearing. The envelopes containing the books of documents were received on November 8, or 9, 2006 by Ton and by Fung.

- [13] Ton reviewed the envelope, documents and cover letter.

- [14] Fung, according to a letter from counsel, says he did not review the contents of the envelope but referred this to Peck, who was absent. Counsel for Fung in a letter dated December 15, 2006 says the following:

“...He does recall receiving a large envelope couriered to the agency office on November 9, 2006. However, he also advises that when he realized it was further material in the Council matter, he forwarded the envelope to Mr. Peck’s office and inadvertently failed to notice reference to the new hearing date in the letter.”

- [15] The inference from this submission seems to be that Fung did not even know of the hearing date the preceding week as late as November 9, 2006. Counsel for the Real Estate Council had this exchange with the Representative regarding receipt of the Book of Documents:

“MR. VERHOEVEN: The last thing I should mention is with respect to Exhibit 2, the book of documents that you’ve got, that was sent to Royal Pacific Realty last week, I believe early in the week, for purposes of – the documents have previously all been sent, but the book of documents, organized in this way, was sent to the office last week and I believe that Ms. Ton said that caused her to start asking some questions about the hearing this week. Is that fair? You got the book of documents last week?”

MS. TON: Yeah, last – on Friday.

MR. VERHOEVEN: On Friday?

MS. TON: Yes. So last Friday. Then I talked to Mr. Fung, my manager. I said that I received this one, and what are we going to do?”

[16] Sometime after this event both Ton and Fung emailed Peck. Those emails and any reply are not in evidence. However the submission of counsel was that Fung failed to note the hearing date on the cover letter.

[17] The hearing before the Real Estate Council was set to convene at 9:30am November 14, 2006. It did not commence until after 11:00am.

[18] During the intervening time there were phone calls between the Managing Broker and solicitors for the Real Estate Council. There was also a phone call between Peck and the solicitors for the Real Estate Council. There were phone calls between Fung and Ton.

[19] According to the evidence both the Representative and Fung sent emails to Peck regarding the hearing. Peck and Fung say that Peck said the hearing was cancelled. Peck, however, says that he searched his records and never received the Notice of Hearing.

[20] Peck says he was referring to the earlier hearing that was adjourned although that hearing was adjourned in May, 2006.

[21] Solicitors for the Real Estate Council sought to prevail upon Fung to attend the hearing when they spoke with him on November 14, 2006. The solicitor advised the Council as follows:

“The problems have been with Mr. Fung and also Mr. Fung’s manager, Mr. Andrew Peck. Now, Mr. Fung, as of this morning, Ms. Gossen, who has been the instructing solicitor for me on this matter, a Real Estate Council lawyer, became aware of his absence and spoke to him by phone. I was on the call. We spoke to him at ten o’clock, basically said, “Where are you?” and he was on a cell phone in Richmond. And we said, “There’s a hearing, get down here.” And he said he would have to talk to Mr. Peck first. We said, “That’s interesting but just get down here. Call whoever you want to, but get down here,” in essence.”

[22] Peck was contacted by telephone in New Orleans at a Real Estate Conference. He said he did not get the Notice of Hearing and requested an adjournment.

[23] As recited by counsel:

“...Mr. Fung was told to be here. Mr. Fung told me on the phone that Mr. Peck told him this morning that the hearing was adjourned. When Ms. Gossen phoned Mr. Peck and said, “Why would he say that?”, I was in on the call, he said, “Well I understood it was adjourned from May and I haven’t heard anything since.” So he says he’s unaware of the July notice and therefore because he’s in New Orleans and is on his way to Florida cannot be here”.

[24] Ton was advised that it appeared that neither Peck nor Fung would necessarily be present and advised as follows:

“THE CHAIRPERSON: So I would invite you to comment on, I guess, what you’ve heard from Mr. Verhoeven and at the request of Mr. Peck, who is not being named in this, he is requesting an adjournment. Mr. Fung appears to be either enroute or otherwise reluctant to attend. Do you have any comments on what you’ve heard, before we deliberate on to what we are going to do?

MS. TON: We must wait for my manager coming.

THE CHAIRPERSON: Well, we don’t know whether your manager is going to appear.

MS. TON: Because, if we –okay, I spoke to Mr. Fung this morning. He told me, you know, this hearing is cancelled. So – but I’m in the parking lot so that I say that – that’s why I come to double-check so that’s why I come here.”

[25] The following exchange then took place:

“THE CHAIRPERSON: And did Mr. Fung indicate on the phone that he was prepared to come at all?

MR. VERHOEVEN: No, he did not. He simply said, and Ms. Gossen could fill us in on that if necessary, but the gist of it was, “I have to speak to Mr. Peck.” And he said that a number of times, and a number of times we said, “That really isn’t necessary, you’re the managing broker, you’re the nominee, the hearing is on, you should be here.”

So he made no commitment.

...MR. MCNEAL: From you, I was wondering what your feeling is, whether Mr. Fung will show up?

MS. TON: I don’t know, because you know, we tried to – we always try to contact to him, because they just phoned me this morning, yeah. I talked to him this morning about three times already.”

[26] The hearing then proceeded and continued for two days.

- [27] Subsequent to the hearing of evidence and submissions, and before a decision was made, Peck made a submission dated November 21, 2006 which was replied to by a submission dated November 29, 2006 by counsel for the Real Estate Council. Further submissions were received dated December 15, 2006 from counsel for Royal Pacific and Fung. A final submission from counsel for the Real Estate Council was received December 21, 2006.
- [28] In effect, through this exchange of submissions, the Council was invited to consider these submissions and reconsider its earlier decision to decline the request for an adjournment. No one objected to this process and, in fact, it was initiated by the submission made by Peck.
- [29] The Real Estate Council rendered its decision February 6, 2007. On the preliminary matter it declined to reverse its previous ruling denying the adjournment and holding that both Fung and the brokerage knew or ought to have known that the hearing had been rescheduled to November 14 and 15, 2006.
- [30] In doing so, the Council accepted that the Representative spoke to Fung and sought his direction after receiving the July 10, 2006 letter rescheduling the hearing and before returning the acknowledgement. Fung was, of course, at all material times the managing broker of the brokerage. The Council also accepted that the Representative discussed receipt of the Book of Documents with Fung on Friday before the hearing.
- [31] As I view the reasons, the Council found it unreasonable for Fung to have simply forwarded the book of documents to Peck "...despite the fact that it was addressed to Mr. Fung, despite the fact that he was aware that he was a party in his own right in an ongoing Council disciplinary matter, despite the fact that he was the responsible managing broker for Royal Pacific and he had been consulted by Ms. Ton...."
- [32] Based on his conversations with Ton, Fung knew or ought to have known that the hearing was rescheduled in July to the November dates. He was reminded of this in November when Ton received the documents and discussed them with him. And he was told this on the date of the hearing when he was in Richmond. Fung does not deny receiving the notice in July but through counsel says he cannot recall receiving it.
- [33] Fung declined to attend the hearing, I might add, despite receiving the remonstrations of counsel that the matter concerned him personally and advise that the statement, upon which he relied, from Peck, was erroneous. The exchange of emails between Fung and Peck were not placed in evidence, so the exact nature of Peck's advice was not in evidence.
- [34] The general standard of review in an appeal to this Tribunal is reasonableness as established by the Supreme Court of Canada in *Law Society of New Brunswick v.*

Ryan, 2003 SCC 20 and applied by this tribunal in subsequent decisions including *Jagit Singh Cheema v. Insurance Council of British Columbia*, FST 05-019, June 15, 2006.

[35] The Council considered the timeliness of the hearing, the fact the other witnesses were present, what the parties knew or ought to have known and determined to proceed. In doing so, the Council weighed the public interest in expeditious decision making and the fairness of proceeding in the situation described.

[36] In these circumstances I cannot say that the Council acted unreasonably in determining to proceed with rendering a decision based on the evidence before it on the merits of the issues. While a party has a right to procedural fairness, it cannot choose to decline to participate in a hearing and then complain of the consequences. Nor, except at its own peril, can it be cavalier with regard to due process: *Aubut v. Minister of National Revenue* (1990), 126 N.R. 381 (Fed. C.A.).

III. Notice of Hearing and Findings

[37] Having determined to proceed, the Real Estate Council considered the evidence and made various findings against Ton and Fung. Ton is not a party to this appeal and did not appeal the findings made against her.

[38] The Amended Notice of Discipline Hearing is dated January 25, 2006. The Notices sent to Fung and Royal Pacific are in the same terms as that sent to Ton. The allegation against Ton and Royal Pacific is set out as follows:

“2. The Discipline Committee will also determine whether the agents had nominees in regular attendance at the agent’s office and in active charge of the business of the agent being conducted in such office, both with regard to the transaction which resulted in the complaint and in the general course of the business of the agents (Regulation 9.16), and the Council will determine whether the nominees have been negligent or incompetent in that regard with the meaning of Regulation 9.12 (negligence or incompetence). Active charge of the business is defined under the Responsibilities of the Nominee (page enclosed) and on pages 236-238 of the Licence Practice Manual.”

[39] The findings of the Council are set out in its decision as follows:

“2. The Discipline Hearing Committee decided that Royal Pacific Realty (Kingsway) Ltd. was in breach of section 9.16 of Regulation 75/61 under the former *Real Estate Act* in that it failed to have a managing broker in active charge of the business of the brokerage in respect of the contract involving Dang Van Duong and Mecheng Duong as sellers and Jeffrey Chang as buyer. The Committee decided to reprimand Royal Pacific Realty (Kingsway) Ltd.

3. The Discipline Hearing Committee decided that Royal Pacific Realty (Kingsway) Ltd. was in breach of section 9.16 or Regulation 75/61 under the former *Real Estate Act* in that it failed to have a managing broker in active charge of the business of the brokerage in respect of the contract involving Dang Van Duong and Mecheng Duong as sellers and Jeffrey Chang as buyer. The Committee decided to reprimand Royal Pacific Realty (Kingsway) Ltd.”

IV. Standard of Review

[40] The Parties agree that the standard of review is the test of reasonableness *Jagjit Singh Cheema v. Insurance Council of British Columbia*, FST 05/019, June 15, 2006.

V. Arguments of the Appellants

[41] The Appellants in their submission raise the following arguments: (1) that nothing in the Amended Notice of Discipline Hearing referenced a complaint or concern regarding the Appellant’s method of responding to the Real Estate Council; (2) the decision was unreasonable based on the evidence.

VI. Appellant’s Method of Responding to Real Estate Council

[42] During the course of its reasons the Real Estate Council references the practice of Royal Pacific of having Peck respond to its inquiries. On their face the response to inquires made of the Ton and Fung were submitted by Peck who referenced what he had been told by the Representative and the Nominee.

[43] The Real Estate Council had concerns about this practice and noted in its decision the testimony of Ton who advised the Council that Peck had removed certain parts of the Representative’s response to it including the reference to documents that later were brought into evidence by Ton.

[44] In response the Real Estate Council says that the method of responding formed part of the Professional Charge and, in any event, the discussion regarding the method of responding formed part of the reasons and not part of the order.

VII. Did the Method of Responding Form Part of the Charge?

[45] The Real Estate Council says that the method of responding formed part of the Professional Charge because the Notice of Hearing referenced “the general course of the business of the agents”.

[46] In reviewing the Notice of Hearing in my view it does not support the notion that there was to be a general inquiry into the course of business of the agents.

- [47] The phrase “the general course of the business of the agents” is describing the inquiry concerning “whether the agents had nominees in regular attendance at the agent’s office and in active charge of the business of the agent being conducted in such office”. The practice of the office to filter responses through Peck was not the subject of the proceeding.
- [48] That said, as I understand the reasons, the Real Estate Council was commenting on this practice as it applied to the gathering of information regarding the matters about which it was concerned.
- [49] There are good reasons that communications with the Real Estate Council on the conduct of its licensees should be direct and not filtered through other persons. In the instant case, for example, Ton referenced in her defence documents and material that Peck had apparently edited from her proposed response. Moreover, in all cases the response of the licensee should be germane to the issues before the Council and it is important that there be no confusion as to whose response has been given.
- [50] In any event, in my opinion the method of responding did not form part of the professional charge.

VIII. Is Reference to the Method of Responding in the Council Reasons Material?

- [51] The second point raised by the Council is that the method of responding was only incidental to the evidence before it, and did not form part of the order of the Council. It is well established that an appeal lies from an order or judgment not from the reasons for judgment: *Reti v. Sicamous (District)*, (1999) BCCA 83.
- [52] A statutory appeal is from the determination of the tribunal, not from the reasons for decision. If an appeal succeeds, the order is set aside, not the reasons for judgment:
- “A reviewing court may refer to the reasons given by a tribunal in order to ascertain whether the determination from which the appeal is brought has been arrived at by a reviewable error, but the appellate review process is grounded in the order made, not the reasons for judgment” (*Reti v. Sicamous*, paragraph 17).
- [53] The order of the Real Estate Council is set forth on page 34 of the decision. The order, as I read it, is restricted to matters referred to in the Amended Notice of Hearing (Tab 1, Exhibit 2). There is no reference in the order to the practice about which it comments in its reasons.
- [54] In my opinion, reference to the manner of responding is not part of the professional charge and while the Real Estate Council found it worthy of comment it did not form part of the order. Further, as I read the decision, it did not materially figure in the determinations made. In the circumstances, the

reference to it is understandable, but was not necessary to the determinations, and the reference to it does not properly ground an appeal.

IX. The Reasonableness of the Decision

[55] The Discipline Hearing Committee found that Fung was negligent and in breach of his duty to be in active charge in respect of his supervision of the Chang transaction. The DHC also found that RPR breached its duty to have a managing broker in active charge in respect of the Chang transaction. The findings of the DHC are as follows:

“2. The Discipline Hearing Committee decided that Royal Pacific Realty (Kingsway) Ltd. was in breach of section 9.16 of Regulation 75/61 under the former *Real Estate Act* in that it failed to have a managing broker in active charge of the business of the brokerage in respect of the contract involving Dang Van Duong and Mecheng Duong as sellers and Jeffrey Chang as buyer. The Committee decided to reprimand Royal Pacific Realty (Kingsway) Ltd.

3. The Discipline Hearing Committee decided that Tak Kun Fung was negligent within the meaning of section 9.12 of Regulation 75/61 under the former *Real Estate Act* in that he was not in active charge of the business of the brokerage in respect of the transaction involving Dang Van Duong and Mecheng Duong as sellers and Jeffrey Chang as buyer and involving Pei Fu Ton as buyer’s agent. The Committee decided to reprimand Mr. Fung. The Committee further ordered that as a condition of continued licensing he is required to successfully complete the disciplinary education assignments applicable to Chapter 2 (Mandatory Requirements under the *Real Estate Services Act*) and Chapter 3 (Business Standards) in the Broker’s Licensing Course as provided by the Real Estate Division of the Sauder School of Business at the University of British Columbia, failing which the Council may cancel or suspend his licence pursuant to section 43(3) and 43(4) of the *Real Estate Services Act*.”

[56] The reasons provided by the DHC for its findings are that Fung failed to advise Ton at their meeting on December 18, 2004 that she should ensure that the purchaser was aware, in writing, of the statutory rights of way and their possible impact on development (see page 32).

[57] The DHC was faced with credibility conflicts between the evidence of the Complainant and the evidence of Ton. The DHC resolved some of the conflict by accepting the evidence of Ton that the Complainant knew about the rights of way, that he had been sent a title search that disclosed the registered charges and that

the Representative advised the Complainant of the rights of way in a fax and by telephone prior to the date for removal of subject clauses in the sales contract.

[58] The DHC found:

“The Committee dismissed the allegation that Ms. Ton failed to ascertain and advise the buyer that the property was encumbered by statutory rights of way for utilities, in favour of British Columbia Hydro and Power Authority and BC Gas Inc. It was satisfied that Mr. Chang saw the power lines when he viewed the property and that he was sent a copy of the title search which showed the power lines and BC Gas Inc. as registered charges. The Committee accepted that Ms. Ton did advise him of these rights of way by fax and telephone prior to December 23, 2004.”

[59] Counsel for Fung and Royal Pacific say that these reasons cannot reasonably support a decision that Fung was negligent for “failing to advise Ms. Ton ... to ensure that Mr. Change was aware in writing of the statutory rights of way and their possible impact on development”. In making this argument Counsel refers to the transcript of evidence where Ton testified as follows:

Q. So you discussed the rights of way on title with Mr. Fung?

A. That’s right. And so that Mr. Fung told me, he say, “You must you the buyer to know and ask him to call the lawyer.” (sic)

Q. Mr. Fung told you that you should make sure you tell Mr. Chang about the rights of way?

A. Yes.

Q. And that he should see a lawyer?

A. Yes.

Proceedings transcript, Vol 2, page 266, lines 13-22.

[60] The evidence of Ton was that she sent a fax to the Complainant advising him of the rights of way. The fax is Ex. 20 and includes the following:

“Please see the PDS and title searches. This property has BC Gas and Hydro right of way. You must go to City of Surrey or see your lawyer, if you want to buy this property...”

Ex. 20.

[61] The Appellants accept that the standard of review is the test of reasonableness. They say that the decision of the DHC is unreasonable because there is no line of analysis within the given reasons that could reasonably lead the DHC from the evidence before it to the conclusion which it reached: *Jagjit Singh Cheema v. Insurance Council of British Columbia*, FST 05/019, June 15, 2006.

- [62] In reply, the Respondent says that the Appellants have misconceived the findings of the DHC. The Respondent says that material facts included (1) there being a water course running through the property limiting the use to which the property could be put, and (2) that the property had no significant or material potential for development.
- [63] The Respondent says that charges relating to these two matters were properly made out against Ton, and support the DHC's findings against Fung.
- [64] The Respondent says "...it was not Ton's failure to advise Chang about the rights of way which grounded the finding of negligence against Fung, rather, it was Fung's failure to ensure that Ton advised Chang, given the rights of way and the stream, about the possible impact of the statutory rights of way on development".
- [65] In response the Appellant says that there is no evidence that that Fung was aware of the existence of the stream. Moreover, the Respondent's reference to the DHC decision is a reference to information disclosed on the title search, and does not concern the existence of the stream. The Appellant says that Ton's negligence was limited by the DHC to her failure to understand or explain to Chang the potential impact of the stream.
- [66] The Appellant says that the expert report submitted to the DHC by the Council discusses at length the impact of the combination of the rights of way and the stream on the development potential of the property. It does not opine on the development potential if the land was only affected by the right of way.
- [67] A review of the transcript does not reveal that Ton advised Fung of the existence of the stream. A review of the Exhibits does not indicate that Fung should have known of the existence of a watercourse.
- [68] In the circumstances was it reasonable for the DHC to draw an inference that Fung was negligent in not being in active charge of the business of the brokerage, when the Complainant was not advised of the lack of development potential based on both the impact of the stream and the impact of the right of way?
- [69] In my opinion it is clear that the DHC misconstrued the evidence in a material way in making their findings. The DHC says "The Committee determined that Mr. Fung was negligent when he failed to advise Ms. Ton at their meeting on December 18, 2004 to ensure that Mr. Chang was aware in writing of the statutory rights of way and their possible impact on development". The evidence, however, discloses that Mr. Fung did advise Ms. Ton to have the purchaser review this with a lawyer and the City of Surrey. This was reduced to writing in the fax which is Ex. 20.
- [70] The Respondent in their argument references the impact of the stream; however, this does not assist it because there is no evidence that Ton or anyone else

brought the existence of the stream to the attention of Fung. Moreover, I do not read the decision of the DHC in the manner suggested by counsel for the Respondent. That is, my reading of the decision of the DHC is that it was based on the question of the impact on development of the right of way.

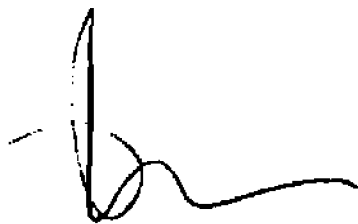
[71] While the expert report focuses on the impact on development of the stream and the combination of the stream and the right of way, there is nothing in the findings or documents that persuade me that Fung knew or ought to have known in his capacity as managing broker, that there was a stream on the property impacting development. The only reasonable interpretation of Ton's evidence is that Fung advised her to have the purchaser review the impact of the right of way with his own lawyer, and Ton clearly acted on that advise, both orally and in writing.

[72] In the circumstances, I find that the DHC findings on the negligence of Fung are unreasonable. Moreover, there is no reasonable basis in the evidence for a finding that Royal Pacific failed to have a managing broker, Fung, in active charge of this contract. Accordingly, those determinations are set aside.

X. Costs

[73] Although on the ultimate issue the Appellant's have been successful, in my opinion much of the costs of this appeal and that below were occasioned by the Appellant's own conduct. Moreover, the Respondent was successful on the first issue which was a major issue in the appeal.

[74] In the circumstances it is appropriate that each party bear their own costs of this appeal. With regard to the ruling below concerning costs, I would not disturb the ruling below as to costs, except so as to limit the costs jointly and severally payable by Fung and Royal Pacific to 30% of the enforcement expenses.



John Savage
Member
Financial Services Tribunal