



Hunt & Hunt

LAWYERS

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25 November 2005

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
PO Box 1199
DICKSON ACT 2062

BY FACSIMILE: (02) 6243 1211

RCSA Application for Minor Variation

We refer to your facsimile dated 22 November 2005.

4.1 – Intervention Process

The Ethics Registrar is Mr Peter Giles. We enclose a copy of the job description for the Ethics Registrar.

The Ethics Registrar was appointed as a result of a recognised need by the Board of the RCSA and the Professional Practice Council for a central point to manage the initial contact by those with concerns about RCSA Members and to maintain a log of such matters so that the RCSA could track and address common issues with training and information material.

The initial appointment of the first Ethics Registrar resulted from a relationship that the RCSA had with the Australian Advocacy Institute. The Executive Officer of the Institute was attending the RCSA's office for two days each week for training and understanding of Association management and service provision. The Executive Officer was approached by the RCSA to commence, on a part time basis, to manage the Ethics Register and to facilitate the distribution of incoming concerns and communications between all parties as well as to assist and support the Region Ethics Committees.

The Professional Practice Council and the RCSA Board recognised the value and more timely way the processes were being undertaken and agreed that the Ethics Registrar should facilitate all initial communications in relation to each matter until the matter is accepted as a formal complaint by the Region Council to be addressed by the Region Ethics Committee.

The role of the Ethics Registrar is combined with the RCSA Business Support Advisory Service so that there is a single point of call for all compliance matters,

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whether they are concerns/complaints or queries regarding business matters. The Ethics Registrar is supported with advice and mentoring by Hunt & Hunt Lawyers.

The intervention process works as follows:

1. When a concern is raised at a Region level or through the Head Office of the RCSA, the Ethics Registrar requests a brief email outlining the concerns raised and the parties involved.
2. The Ethics Registrar checks that the party against whom the concern is raised is a Member of the RCSA.
3. The Ethics Registrar prepares a sequence of events/summary in relation to the concern and confirms with the complainant that these are correct and can be forwarded to the Member against whom the complaint has been raised.
4. The Ethics Registrar notifies the Member by email, letter and fax that a concern has been raised, and provides the Member with the sequence of events/summary.
5. The Member is given a time frame in which to respond, usually seven business days, and the complainant is notified that this has occurred.
6. When the Ethics Registrar receives the response, the following may occur:
 - (a) as a result of the intervention the parties may have resolved the dispute with no further action required;
 - (b) there is still a dispute regarding the facts and the party who raised the concern wants to proceed to a formal complaint;
 - (c) there is a clear need for the Ethics Registrar to seek information from other parties before all the information is available – permission may be sought to do this.

It is here that the parties will agree via the Ethics Registrar, or between themselves, the timeline for resolving the dispute – depending on the matter and whether it can be resolved at this point.

7. If the matter proceeds to a formal complaint, the timelines are established as part of the complaints procedure.
8. The complainant will initially set the timeline for when it wants the dispute resolved, however this will require negotiations by the Registrar as the complainant's expectations can often be unrealistic.
9. If both parties are Members of the RCSA, the complainant Member will initially set the timeline.

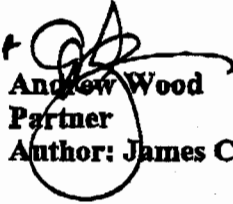
If the complainant wishes to advance the matter to a formal complaint, the intervention process is terminated and a complaint form is issued. All material gathered as part of the intervention is provided to the Region Council to assist in determining whether the matter should be addressed by the Region Ethics Committee.

4.5(xii) – Proceedings Generally

Our client had instructed us that it is willing to amend clause 4.5(xii) from “without third party representation” to “without legal representation.”

Should you have any further questions, please do not hesitate to contact us.

Yours faithfully
HUNT & HUNT


Andrew Wood
Partner
Author: James Clarke

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