

ASX Circular

Date: 14 December, 2007

Key topics

1. Tolhurst Limited

Reading List

Client Advisers
Compliance Managers
DTR Operators
Managing Directors
Office Managers
Operations Managers (back office)

Contact

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No responsibility is accepted for any inaccuracies contained in the matter published.

DISCIPLINARY MATTERS

The ASX Disciplinary Tribunal ("the Tribunal") has determined that Tolhurst Limited ("Tolhurst") contravened old ASX Business Rule 7.3.1.3 in that it failed to retain a copy of the written client agreement it entered into with a client in respect of the client's Superannuation Fund Account.

The Tribunal imposed a fine of \$5000 plus GST.

Tolhurst did not contest the contravention before the Tribunal.

In determining appropriate sanction, the Tribunal took into account a number of matters, including the following:

- (a) The facts and circumstances of the matter;
- (b) Tolhurst had obtained the written client agreement required by old ASX Business Rule 7.3.1.1(d), as confirmed by the client;
- (c) The corrective action undertaken by Tolhurst to prevent any reoccurrence including the introduction of new back office settlement and clearing systems with an integrated document management system to further enhance its document management processes; and
- (d) Tolhurst has employed an experienced Document manager to enhance documentation retention, retrieval and archiving processes and procedures.

The circumstances of this matter are detailed as follows:

1. On or about 26 September 2002, Tolhurst entered into an agreement of the kind required by old ASX Business Rule 7.3.1.1(d) with a client.
2. Pursuant to old ASX Business Rule 7.3.1.3, Tolhurst was required to retain a copy of that agreement.
3. ASX Compliance Services requested a copy of the account opening documents provided to the client. Tolhurst advised and confirmed that it had conducted a search of its archived records but was unable to locate the account opening documentation.