

Judge criticises founder of new adviser complaints body – NZ Herald, 18 December 2009

One of the founders of a new body set up to investigate complaints against financial advisers has been criticised by a judge for engaging in "colourable business practices".

Wellington business consultant and qualified lawyer Peter Marriott has helped to create Financial Services Complaints, a disputes resolution scheme which plans to register under the new Financial Services Providers Act.

From next year the new law will require all financial advisers to be members of such a scheme.

Those on the FSC board include Federation of Family Budgeting Services chief executive Raewyn Fox and Institute of Financial Advisers president Lyn McMorrان.

Peter Marriott was currently "acting in an executive capacity", Wellington barrister and chairman Kenneth Johnston said.

In an unrelated High Court decision out this month Justice Paul Heath said Marriott was "not averse to involving himself in dubious transactions, if the economic results would benefit him".

The judge said Marriott's evidence in the case was "contradictory" and inconsistent with documentation.

The civil action was brought against Marriott by Peter Watt, a businessman he advised, and Watt's property company Wellington Audio Visual.

Marriott argued that Watt had verbally agreed to give him 20 per cent of Wellington Audio Visual as payment for his services, but Watt denied this.

Justice Heath said he had no confidence he could rely on either man, but said there was "not a scintilla of independent evidence to support Mr Marriott's contention".

He also said Marriott's failure as a director of WAV to file any GST returns one year, and his explanation that a \$40,000 payment to himself was shown as a loan on the company's books so he could avoid paying tax on it were examples of dubious transactions.

In 2005 WAV agreed to buy \$1 million worth of shares in Lombard Group to help it comply with stock exchange listing rules ahead of its planned float.

With the failure of the Lombard group the shares became worthless and relations between Watt and Marriott soured.

As part of the arrangement WAV sent invoices to the company that brokered the deal for so-called fees and expenses.

Justice Heath said the invoices were "pure fiction" and represented nothing more than the price the broker was prepared to pay WAV for its help.

Marriott said he did not intend to let the judgment stand. "I consider myself to be an honest trader and I'm clearly very upset by this."

He said he had done nothing wrong regarding the GST returns and loan from WAV. "How the judge has taken those two entirely appropriate commercial approach[es] and found that somehow discredits me is something I'm at a loss to understand."

In regards to Financial Services Complaints, he said his role was to set it up and it was never the plan that he remain involved long term.

Chairman Kenneth Johnston said he was not in a position to comment on the Heath judgment.

Lyn McMorran and Raewyn Fox both said they did not know about the decision.