

NOTICE OF FILING

Details of Filing

Document Lodged: Notice of Contention - Form 124 - Rule 36.24
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment: 18/10/2023 2:33:17 PM AEDT
Date Accepted for Filing: 19/10/2023 9:45:23 AM AEDT
File Number: VID786/2023
File Title: AMP FINANCIAL PLANNING PTY LTD v EQUITY FINANCIAL
PLANNERS PTY LTD & ANOR
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Sia Lagos

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



Notice of contention

No. VID 786 of 2023

Federal Court of Australia
District Registry: Victoria
Division: General

On appeal from the Federal Court

AMP Financial Planning Pty Ltd (ACN 051 208 327)
Appellant

Equity Financial Planners Pty Ltd (ACN 151 382 311) and another named in the schedule
First Respondent

To the Appellant

The Respondents contend that the judgment of the Federal Court should be affirmed on grounds other than those relied on by the Court.

*Note: Unless otherwise defined in this Notice, capitalised terms have the meaning ascribed to them in the Court's reasons delivered on 5 July 2023 (**Reasons**), or the orders of the learned primary judge dated 29 August 2023 (**Orders**).*

Grounds relied on

1. The Orders of the learned trial judge, and His Honour's answer to common question 1 in Schedule A of the Orders that AMPFP did not effectively amend the BOLR Policy to introduce the 8 August 2019 Changes as of 8 August 2019 (Reasons [16], [602], [644]), should be affirmed on the grounds that:
 - a. on the proper construction of the BOLR Policy:
 - i. any changes to the BOLR Policy made pursuant to the LEP Provision must be reasonably necessary to make the BOLR Policy appropriate in light of the economic or legislation change that renders the policy or any part of it inappropriate; and

3475-2737-5911v1

Filed on behalf of (name & role of party)	Equity Financial Planners Pty Ltd and WealthStone Pty Ltd (Respondents)		
Prepared by (name of person/lawyer)	Chris Pagent		
Law firm (if applicable)	Corrs Chambers Westgarth		
Tel	(02) 9210 6162	Fax	(02) 9210 6611
Email	chris.pagent@corrs.com.au		
Address for service (include state and postcode)	Level 37, Quay Quarter Tower, 50 Bridge Street, Sydney NSW 2000		

- ii. the 8 August 2019 Changes were not reasonably necessary to make the BOLR Policy appropriate in light of the First Alternative Economic Change;
- b. AMPFP failed to act in good faith and reasonably in purporting to amend the BOLR Policy to introduce the 8 August 2019 Changes, and more particularly that:
 - i. it was a term of the BOLR policy that AMPFP was required to act in good faith and reasonably in exercising the power to amend the BOLR Policy (**Good Faith Obligation**);
 - ii. compliance with the Good Faith Obligation was a pre-condition to the effective exercise of the power to amend the BOLR Policy;
 - iii. AMPFP failed to consult with the ampfpa in accordance with the Good Faith Obligation;
 - iv. AMPFP exercised the power to amend pursuant to the LEP Provision for an improper or ulterior purpose, contrary to the Good Faith Obligation; and
 - v. as a result of each or either of the matters in sub-paragraphs (iii) and (iv) above, the 8 August 2019 Changes were ineffective;
- c. AMPFP failed to consult with ampfpa in respect of the 8 August 2019 Changes, or any of them, within the meaning of cl. 1.4 of the Master Terms (and His Honour's answer to common question 1.e.i. in Schedule A of the Orders should be affirmed) because:
 - i. AMPFP was not open to considering ampfpa's feedback or finding common ground;
 - ii. AMPFP required RemCo to sign non-disclosure agreements which precluded proper consultation; and/or
 - iii. AMPFP failed to consult with the ampfpa in accordance with the Good Faith Obligation.

Date: 18 October 2023

A handwritten signature in blue ink, appearing to read 'C. Pagent', is positioned above a horizontal line.

Signed by Christopher John Pagent
Lawyer for the Respondents

Schedule

No. VID 786 of 2023

Federal Court of Australia
District Registry: Victoria
Division: General

Respondents

Second Respondent: WealthStone Pty Ltd (ACN 140 148 214)

Date: 18 October 2023