IRISH FINANCIAL SERVICES APPEALS TRIBUNAL

In The Matter of the Central Bank Act 1942 (as amended)

Case No. 020/2016

Between:

DAVID REDMOND

Appellant

and

CENTRAL BANK OF IRELAND

Respondent

DETERMINATION

1. This is the determination by the Tribunal of the Appeal brought by the above-named Appellant on 12th January 2016 against a decision of the Respondent ("the Contested Decision") dated 23rd December 2015 which refused two applications made by the Appellant for: (1) authorisation under section 10 of the Investment Intermediaries Act 1995 (as amended) to conduct business as a regulated investment business firm; and (2) registration as insurance intermediary pursuant to Regulation 8 of the European Communities (Insurance Mediation) Regulations 2005 (as amended).

Procedure.

2. The appeal was notified to the Respondent by the Registrar of the Tribunal on 13th January 2016 and a Response was lodged on 29th January 2016. The Appellant replied to the Response on 10th February 2016.
3. Pursuant to section 57H of the Central Bank Act 1942 (as amended)(Central Bank Act), the Chairperson of the Tribunal designated Helen Collins and Teresa Pilkington to sit with him (the Panel) to hear and determine the appeal.
4. At a meeting on 3rd March 2016 the Panel decided under Rule 4 (12) of the Irish Financial Services Appeals Tribunal Rules 2008 (IFSAT Rules), to direct the parties to furnish certain information and to produce particular documents; and invited them to indicate whether any further directions or orders were required by either in preparation for the hearing of the appeal. Subject thereto, the Panel informed the parties that it proposed to proceed without holding a Directions Hearing under Rule 6 of IFSAT Rules and fixed the date of the hearing.
5. By letter of 22nd March 2016 the Panel requested the Respondent to provide it with a copy of the instrument dated 7th December 2015 by which the Decision-Maker (see paragraph 16 below,) was appointed to make the Contested Decision. The instrument was furnished on 23rd March 2016.
6. Arising out of the Respondent's reply of 14th March 2016 to the above directions, the Panel issued further directions to the Appellant by letter of 16th March 2016. The Appellant replied to the above directions by letters of 23rd March and 4th April 2016.

7. The appeal was heard by the Panel on 12th April 2016.

Factual Context.

8. While there have been some uncertainties in relation to some events, dates or other matters of detail, the general factual background to the Contested Decision can be summarised as follows.
9. The Appellant had since 2005 been a director and joint 50% owner of a regulated financial services business, Simple Financial Solutions Ltd (SFSL) with a co-director and co-owner KM. According to the Appellant, the business had initially been successful and in late 2012 took on additional employees and moved to new offices.
10. In early 2013 the Appellant became concerned at what he considered to be the irregular conduct of KM and differences arose between them. These caused the Appellant stress and depression with the result that in May 2013 he was obliged to take sick leave from the firm which lasted until December 2014.
11. In July 2014 the Appellant says he contacted the Respondent seeking to consult it in relation to his concerns about the irregular behaviour of KM in the affairs of SFSL. He claims that the official he spoke with informed him that the Bank could not intervene but advised him to leave SFSL and apply for authorisations to carry on business in his own right.
12. On 10th November 2014 the Appellant made applications for the authorisation and registration the subject of the Contested Decision.
13. On foot of those applications the Appellant was first interviewed by two officials of the Respondent on 25th May 2015 and then by three different officials on 16th July 2015. A third interview by three officials (one of whom had participated in the second interview,) took place on 10th September 2015. The transcript of this interview formed the basis upon which the Contested Decision was made as described below.
14. By letter of 12th November 2015 signed by a further officer of the Consumer Protection, Policy and Authorisations Division of the Respondent, the Appellant was given "Notice of Proposal to Refuse" the applications upon the basis that the "Central Bank has formed a **preliminary opinion"** in relation to the application upon statutory grounds there set out. The letter invited the Appellant to make written submissions which would be fully considered before a final decision was made by 4th December 2015 and informed him that a refusal decision would be appealable under Part VIIA of the Central Bank Act. The Appellant made written submissions by letter of 26th November 2015.
15. By an instrument entitled "Assignment of Responsibility – Appointment" dated 7th December 2015 Grainne McEvoy was appointed "*as the Decision-maker(s) (sic) for the purpose of reaching a decision in relation to the proposed refusal of the application"* of the Appellant by the Deputy Governor (Financial Regulation) of the Respondent.

The Contested Decision.

16. The Contested Decision was made on 23rd December 2015 and sent to the Appellant by letter dated 24th December 2015.
17. It identifies its basis as being made pursuant to section 10 of the Investment Intermediaries Act 1995 (as amended) (the 1995 Act) and Regulation 8(1) of the EC (Insurance Mediation) Regulations 2005 (as amended)(the 2005 Regulations); refers to the applications made for authorisation under section 10 of the former and registration under Regulation 8 of the

latter; and to the Proposal to Refuse of 12th November 2015 (see paragraph 14 above) and the Appellant's submissions in reply. It records that the Decision-maker has considered those documents and the transcript of the interview of the Appellant of 10th September 2015.

18. It refers to the fact that since July 2014 the Appellant had raised with the Central Bank concerns about breaches within SFSL including:

- Non-submission of accounts in accordance with the Bank's requirements;
- SFSL not trading from its registered office;
- Non-submission of On-Line Reporting returns as required by the Bank;
- Non-submission of returns to the Companies Registration Office;
- Non-compliance by SFSL with complaints handling procedures.

The Decision-maker then observes: "*Some or all of these issues commenced either before the dispute with the co-director or after the dispute with this co-director but before the Applicant's period of sick leave".*

20. The Contested Decision then sets out the relevant provisions of the 1995 Act and the 2005 Regulations and cites the provisions of the Respondent's Fitness and Probity Standards (Code issued under s.50 of the Central Bank Reform Act 2010) (the F&P Standards) and its published Guidance on Fitness and Probity Standards document (2015) (the F&P Guidance). (See paragraphs 38-44 below.)
21. Under the section "Analysis" the Decision-maker then sets forth the reasons for the conclusion to the Contested Decision as follows.
22. She concludes, first, that the Appellant had failed to satisfy the Respondent as to his probity and competence to be authorised under s. 10(5)(d) of the 1995 Act because he had failed to investigate the allegations as to the fitness and probity of his co-director KM and to take action on them contrary to s.21.3 of the F&P Guidance. She nevertheless "*makes no findings*" in relation to the allegations of forgery in question. She also "*makes no findings*" under Section 4.1(i) of the F&P Standards in relation to the allegation of non-cooperation with the Respondent.
23. Secondly, she finds that the conviction of SFSL in the District Court "*impacts on the probity*" of the Appellant. She finds thirdly that the Appellant had failed to satisfy the Respondent as to his knowledge of the responsibilities of the business of a regulated service provider as required by Section 3.2 (d) of the F&P Standards and that he had not demonstrated a clear and comprehensive understanding of the "*general regulatory and legal obligations or specific prudential or consumer protection requirements"* as imposed by Section 3.2 (e) of those Standards.
24. Fourthly, she finds that the Appellant had not satisfied his obligations as a director of SFSL because of his failure to comply with the Respondent's on-line reporting requirements and with Section 3.5 of the F&P Guidance to submit a list of the Pre-Approval controlled functions and to confirm the due diligence performed on persons performing those functions. She explicitly makes "*no findings under Section 10(8*)" of the 1995 Act.
25. Fifthly, in relation to the 2005 Regulations, she finds that the Appellant had failed to satisfy the Respondent that he would be able to undertake in proper manner the responsibilities of intermediaries under Regulation 14(1) for lack of demonstrating a clear and comprehensive understanding of "*the regulatory and legal environment*" required by Section 3.2(e) of the F&P Standards as evidenced by his responses in this regard at the interview of 10th September 2015 (pp7-8 of transcript). She further finds that the Appellant had not

demonstrated a sound knowledge of the business of a regulated financial service provider as a whole as required by Section 3.2 (d) of the F&P Standards. For the avoidance of doubt she added that she found "*under Regulation 15 (1) of the 2005 Regulations for the same reasons*."

The Appeal Hearing.

26. The Tribunal heard the appeal on 12th April 2016 at which the Appellant appeared in person and the Respondent was represented by S. Dowling, Barrister, instructed by D. Hanlon, Solicitor. At the conclusion of the hearing the Panel reserved its decision with a view to providing the present written determination.
27. Subsequent to the hearing the Appellant submitted a number of items of correspondence to the Registrar who was directed to forward them to the Respondent before giving them to the Panel. The items in question included, *inter alia,* legal advices given to the Appellant in August 2014 in relation to available remedies in respect of the disputes in SFSL; correspondence by his solicitors between September and November 2014 with the co-director KM in respect of the disputes including attempts to resolve them by arbitration; and alleged defamatory statements by the latter. Respondent raised no objection to these being received by the Panel but commented that the legal advice in question reaffirmed the Respondent's case that well before the Appellant went on sick leave, he had known of the serious irregularities in the affairs of SFSL which had not been notified to the Respondent until mid-2015.

Arguments of the Appellant.

28. Both in the Appeal application and at the hearing the Appellant reiterated the factual background to the problems which led to the failure of SFSL and his application for authorisation in his own right and emphasised that, contrary to the findings in the Contested Decision, he had done nothing wrong. On the contrary, it was he who had brought the irregularities of his co-director to the attention of the Respondent and sought its assistance. It was he who had gone to the Garda Síochána. It was he who was now being punished for irregularities which occurred when he was out sick and of which he had no knowledge at the time. He disputed in particular the finding that *"some or all of these issues commenced either before the dispute… or after the dispute with his co-director but before*" his period of sick leave.
29. He contended that when the issues first arose in February 2013 his co-director proposed to resign and this would have enabled the Appellant to put matters in the firm in order but the co-director subsequently reneged on that proposal and, behind the Appellant's back, removed files from the firm premises to his home, cancelled the office lease and concealed from the appellant that he, the co-director, had been the subject of client complaints.
30. So far as concerns specific charges, the Appellant submitted that the failure to submit accounts to the Respondent including the on-line report was due to the refusal of the co-director to complete the accounts and the unwillingness of the Appellant to acquiesce in the provision of falsified accounts.
31. In relation to the delay in winding up SFSL, the Appellant at the hearing informed the Tribunal that a liquidator had been appointed and that a creditors' meeting was to take place later in April 2016. He explained that at all times his great concern was what was to happen to "*his clients*" that is, the "*client book*" he had bought from Zurich, brought into

SFSL and had built up. Where would they go if the firm was wound up? He wanted to get authorised in his own right before a winding up took place so that he could look after them.

Arguments of the Respondent.

32. The Respondent emphasised that the Appellant's applications had been considered with great care and deliberation which was why the process had taken so long. The case had been complex and the circumstances in which the Appellant had found himself had not been underestimated. Nevertheless, the Respondent had a statutory obligation to apply the relevant criteria and conditions and could not grant authorisation or registration when the relevant criteria were not met.
33. It had been necessary to enquire into the Appellant's business history because of his involvement in SFSL and this disclosed that no accounts or on-line returns had been filed since 2011 – before the apparent disputes within the firm. These had still not been filed.
34. His answers at the interviews showed that he had no sufficient knowledge of the regulatory obligations and he was unable to point to any of the relevant legislative provisions.
35. So far as probity was concerned it was not that he was responsible for the alleged forgery but that when he became aware of it he failed to take action in relation to it as he should have done.
36. He was and remained a responsible officer of SFSL and was thus associated with the conviction of that company in accordance with the Code (see paragraph 40 below).
37. He had undertaken on several occasions to place SFSL in liquidation but had failed to take the necessary steps. In effect, the Appellant had put his own personal interests ahead of those of the proper management and orderly winding up of SFSL and that was a consideration which went to his fitness and probity and which the Respondent was obliged to take into account. He had remained a director of a non-compliant, regulated financial service provider.

The Legislative and Regulatory Framework.

38. Sections 21 and 22 of the Central Bank Reform Act 2010 (2010 Act) empower the Respondent to adopt Regulations prescribing and defining "*controlled functions*" and "*pre-approval controlled functions*".
39. In exercise of that power the Respondent has adopted S.I. No.437 of 2011 Central Bank Reform Act 2010 (Sections 20 and 22) Regulations 2011 (the 2011 Regulations). In essence, the effect of the 2011 Regulations is to define and prescribe the conditions and criteria the Respondent will apply to those functions as defined being, in effect, advisory and executory operations carried out by individuals, firms and corporate entities engaged in providing a range of financial, insurance and finance related services.
40. Section 50 of the 2010 Act also empowered the Respondent to issue a code setting out standards of fitness and probity for the purpose of Part 3 of the 2010 Act under which the powers of the Respondent in relation to financial service providers and their officers are prescribed. In exercise of that power the Respondent has adopted and issued its "Fitness and Probity Standards" Code in September 2011. (the F&P Standards). Paragraph 2.4 of the F&P Standards provides that in determining whether the F&P Standards have been complied with regard is to be had to any applicable guidance issued by the Respondent.
41. In that regard, the Respondent adopted and issued its "Guidance on Fitness and Probity Standards 2015" (the F&P Guidance) with the expressed purpose of assisting regulated

service providers in complying with the statutory obligations by setting out the steps the Respondent would expect providers to take in order to satisfy it that persons performing those functions are compliant with the prescribed standards.

42. It has not been disputed that the operations for which the Appellant applied for authorisation and registration and which are the subject of the Contested Decision come within the scope of the F&P Standards and the F&P Guidance.
43. The criteria of fitness and probity as explained by the F&P Standards are that a person to whom the Standards apply must at all times: a) be competent and capable; b) be honest, ethical and act with integrity; and c) be financially sound (paragraph 2.2). These are further explained in sections 3, 4 and 5 of the F&P Standards which include, *inter alia*, the following. "*Competent and capable conduct requires demonstration of "a sound knowledge of the business of the regulated financial service provider as a whole, and the specific responsibilities that are to be undertaken in the relevant function:"* and *"a clear and comprehensive understanding of the regulatory and legal environment appropriate to the relevant function*"(paragraphs 3.2(d) and (e).
44. The concept of "probity" is explained in paragraph 16.2 of the F&P Guidance as being "*a matter of character illuminated by a person's past behavior in general, where a person is found not to be a person of probity due to a lack of honesty, integrity or ethical judgment, that person may not be suitable for any*"….of those functions.
45. The criteria as to honesty, ethical conduct and integrity are explained or defined by reference to 11 criteria (sub paragraphs (a) to (k) of paragraph 4.1). So far as relevant here, the only criterion relied upon in the Contested Decision has been that of sub paragraph (k) namely, that the person concerned is not adversely affected by, *inter alia*, factors such as having had a position of responsibility or influence in any business "*which has been… in any jurisdiction, investigated, disciplined, censured, suspended or criticised by a regulatory or professional body, a court or tribunal or any similar body, whether publicly or privately*…".

Determination.

46. As summarised in paragraphs 21-25 above, the applications by the Appellant for authorisation and registration were refused in the Contested Decision upon the ground that in his application, as supplemented by his interview, he had failed to satisfy the Respondent on a number of the applicable criteria and conditions governing the grant of the applications, namely:
    i) His probity and competence for authorisation as an investment intermediary under s.10 (5)(d) of the 1995 Act;
    ii) His knowledge of the business of a regulated service provider and the responsibilities to be undertaken as required by s.3 (2) d) of the F&P Standards;
    iii) His having a clear and comprehensive understanding of the general regulatory and legal obligations or specific prudential or consumer protection requirements of s.3(2)(e) of the F&P Standards;
    iv) His ability to undertake in a proper manner the responsibilities imposed on insurance intermediaries by Regulation 14(1) of the 2005 Regulations; and
    v) The necessary knowledge and ability to undertake the responsibilities with respect to insurance mediation as required by Regulation 15(1) of the 2005 Regulations.

47. The issue raised by the appeal accordingly, is whether, based upon the information provided by the Appellant in the application forms and the interview as relied upon by the Decision-Maker in the Contested Decision, the Respondent has validly decided that the applications should be refused because the criteria and conditions in question had not been established to its satisfaction.
48. It must first be pointed out that, as an applicant for the statutory licences concerned, the onus lay with the Appellant at all times to demonstrate and to provide any necessary supporting proofs that he possessed the experience, qualities, character and expertise required to fulfil the statutory and regulatory conditions. This is so for all applicants irrespective of their previous activities, if any, in the financial services sector. In that regard it is relevant to point out that that in the application forms completed by the Appellant on 10th November 2014 (see paragraph 12 above) all applicants have their attention drawn to the relevant legislative and regulatory requirements; that they are advised to consult the "Handbook of Prudential Requirements for Investment Intermediaries" and recommended to consider whether they should seek their own legal advice.
49. While it is the case, as indicated above in the recital of the Appellant's arguments, that the Appellant feels aggrieved that he is being punished for the irregularities that occurred in his firm SFSL, the task of the Respondent in assessing applications for authorisation and registration is to make an objective and impartial evaluation of all the relevant information available to it as to the compliance or non-compliance by the individual applicant with the statutory and regulatory requirements.
50. It is convenient in this case to deal first with the ground of refusal based upon failure to demonstrate the required knowledge of the business and responsibilities and the clear and comprehensive understanding of the relevant legal and regulatory obligations as described in paragraph 46 (ii), (iii) and (v) above.
51. In the judgment of the Tribunal, the Respondent had no option but to refuse the application on this basis. At the interview of 10th September 2015 the Appellant had been invited on a number of occasions to explain his understanding of the applicable legal and regulatory obligations but did not provide any specific or cogent indication of familiarity with the regulatory regime or applicable standards.
52. At the hearing before the Tribunal however this reticence was explained as having been deliberate. The Appellant explained that he did indeed have the Prudential Handbook in the drawer of his desk but that it had been suggested to him not to answer such questions because he would only be trapped if he made a mistake in his answers. He said "*I was advised, being perfectly honest by PIBA and the IBA and compliance officers not to put myself in a position that I would be asked questions until I got a wrong answer….. Because if they decided they were mindful to refuse my application it could be used against you I knew but I wasn't going to put myself in a position of answering four out of five to get it wrong."* (Transcript page 37.)
53. In the view of the Tribunal the Appellant, if so advised, was misled because, if he was indeed familiar with the details of the relevant F&P Standards and F& P Guidance and had been conversant with the legal and regulatory framework and the responsibilities in question; and if he had been in a position to give appropriate answers to the questions posed to him at the interview but chose not to do so, he effectively misled the Respondent by concealing the fact. In these circumstances, the challenge to the finding in the Contested Decision in this regard is clearly untenable and must be dismissed.

54. This upholding of the finding as to lack knowledge and understanding of the legislative and regulatory regime and of the relevant operational responsibilities applies to both the application for authorisation under the 1995 Act and that for registration under the 2005 Regulations, is sufficient to sustain the validity of the Contested Decision. Nevertheless, in view of the gravity of the issues raised by the findings as to probity and competence, it is appropriate to address also the second strand of the appeal in respect of the findings on those conditions.
55. In this regard it is important to emphasise that in this case neither the Respondent in assessing the Appellant's application nor the Tribunal in considering this appeal is required or entitled to reach any view as to the rights and wrongs of the disputes which arose between the Appellant and his co-director in SFSL. Only one side of those issues has been presented. The only question is whether the Appellant has demonstrated that the Respondent has erred in its assessment of the information before the Decision-Maker as to his alleged lack of competence and probity within the terms of the applicable criteria?
56. The Tribunal notes that in this respect the Contested Decision deals jointly with the criteria of "probity" and "competence" without differentiating between them in the assessment of the evidence.
57. The position remains however that the finding of the Contested Decision of non-fulfilment of the fitness and probity condition and criteria is based upon; a) the Appellant's failure to promptly investigate and take action upon the irregularities he became aware of in the affairs of SFSL including, particularly, the alleged forgery of his signature; and b) the collateral impact upon him as a director of SFSL of the District Court conviction for non-filing of returns.
58. So far as concerns the first of these findings, the Tribunal is satisfied that the conclusion of the Contested Decision is justified. What emerges clearly from the interview of 10th September 2015 and is confirmed by the answers of the Appellant to questions at the hearing, is that the Appellant, while aware of the gravity and implications of the irregular conduct of his co-director in early 2013 and while possibly delayed in facing up to them by his situation of stress and sick leave in May 2013, postponed taking appropriate steps to regularise or address the position of SFSL or to pursue appropriate legal remedies to resolve the disputes, for reasons which were primarily motivated by his personal interests. This is a factor which bears upon the criterion of fitness for a position as or in a regulated financial service provider.
59. At the 10th September interview and with specific reference to the Respondent's fitness and probity criteria he was asked about the alleged signature forgery and why this had not been notified to the Respondent at that time. He explained: *"I tried to explain the reason why I didn't bring it to your attention is because I believe your attitude… would have been to come in and stop the firm practising until it was investigated, no.1. I had three staff for me that had nothing to do with them. K.. said he was going to resign, I was offering to buy him out of the business so I thought I could resolve this internally without it affecting anybody else. … And I fully intended to report to the Central Bank once the matter was resolved, do you know what I mean."*
60. In particular, he was motivated not to act because of his concern for what he described as "his clients". He explained at the hearing that he had brought into SFSL from his former employment a block of business or clients from which the firm derived annual renewal revenue. He said: *"If I liquidated the company before I had somewhere else to go or my*

authorisation, where would my clients go? Central Bank's responsibility is supposed to be about my clients. Where would my clients go? I had to have a home for them."

61. In this respect the Appellant was mistaken. In a liquidation the value of any such block of clients was not the property of any director but was an asset available to the liquidator to realise for the benefit of creditors.

62. It follows in the judgment of the Tribunal that the Respondent was entitled on the basis of the factual information before it to be satisfied that the criteria as to fitness were not demonstrably established in the application. This is based upon the interpretation of the notions of probity and fitness contained in the F&P Guidance at paragraphs 16.2 and 21.3 which require that a regulated service provider must investigate and take action without delay in relation to concerns about which he becomes aware as to the fitness and probity of any person performing a controlled function, *in casu,* the co-director in this instance KM. The Appellant, while not personally dishonest was misguided in failing to act earlier to address the obvious implications of the irregularities in the affairs of SFSL and as such fell short of the qualities of fitness which the Respondent is entitled in law to require of a person seeking authorisation as an investment intermediary or registration as an insurance intermediary.

63. It is therefore unnecessary to rule upon the reliance placed in the Contested Decision upon the impact of the District Court conviction of SFSL as impacting upon the fitness and probity of the Appellant.

64. Nevertheless, the Appellant has "*completely accepted*" at the hearing the contention of the Respondent that no returns had been filed by the company for any of the years 2011 to 2015 including those years prior to the emergence of the disputes in 2013. The Appellant asserted that he had believed that on-line returns had been made for 2011 and that it was the responsibility of his co-director as "compliance officer". He had attempted to have accounts for 2012 compiled but the co-director refused to instruct the accountant and auditors.

65. In the judgment of the Tribunal, this was something the Decision-maker was entitled to take into account as going to the requirement of Section 3(2) d) of the F&P Standards (see paragraph 23 above.) As one of only two principals in a small firm the Appellant had a responsibility to ensure and to check that routine regulatory obligations such as the filing of periodic on-line returns and the approval and signing off of annual financial statements were being complied with. Whatever excuses might be proffered in respect of the failures in the years 2013 and following, the position remains that the Appellant's ignorance of and failure to rectify the position in respect of the 2011 returns throughout 2012 at least, could validly be regarded as indicating a lack of understanding of the specific responsibilities to be undertaken by a regulated financial services provider.

66. For these reasons the appeal is refused and the Contested Decision is affirmed.

Dated: 5 May 2016.

Signed: The Hon. John D. Cooke S.C. Chairperson, _____

Helen Collins, Member _____

Teresa Pilkington, Member _____

IRISH FINANCIAL SERVICES APPEALS TRIBUNAL

In The Matter of the Central Bank Act 1942 (as amended).

Case No. 020/2016

Between:

DAVID REDMOND,

Appellant

AND

CENTRAL BANK OF IRELAND

Respondent

ORDER FOR COSTS

1. By its determination of the 5th of May 2016 the Tribunal refused the above appeal and affirmed the Contested Decision of the 23rd of December 2015.

2. The Respondent has applied to the Tribunal under Section 57AH of the above Act and Rule 24 of the IFSAT Rules 2008 for an award of its costs of the appeal and by letter of the 8th of August 2016 submitted a bill of costs in the sum of €17,916.50 made up as follows:-

Fees of Counsel	€14,300.00
VAT	€3,289.00
Stenographer	€77.50
Sundry Outlay	€250.00
Total	€17,916.50

3. The Appellant made observations on the application as follows:

"*I feel I was well entitled to make the appeal. I don't agree that the Central Bank met there obligations to answer my application in a reasonable amount of time.*
I certainly can't afford to pay costs, but then again none of this has been 'fair'"

4. Rule 24 of the IFSAT Rules 2008 provides as follows:-

24. (1) Where the Appeals Tribunal is of opinion that, having regard to its determination of an application or appeal and all other relevant matters, there are sufficient reasons rendering it equitable to do so, the Appeals Tribunal may, either of its own motion or on application by any party to the proceedings, order that the whole or part of:
(a) the costs specified in the order (including costs of a suitable person appointed by the Appeals Tribunal under section 57U(2) of the Act to represent a party who is an incapacitated person) of any party represented in the proceedings by counsel or solicitor

(b) the expenses specified in the order (including, without limitation, fees paid to the Appeals Tribunal) incurred by any party to the proceedings
(c) the expenses specified in the order incurred by the Appeals Tribunal in the conduct of the proceedings shall be paid to the party or, as the case may be, the Appeals Tribunal by any other person named in the order.
(2) The Appeals Tribunal may make an order for costs in respect of the costs incurred in any application, or in respect of the costs of the proceedings to date, at any stage of proceedings. 18 [224]
(3) Any order for costs awarded to a party may include an order measuring the costs.

5. In considering the application the Tribunal has had regard to the following factors:-
   a. The nature of the Appeal namely, one against the refusal of a statutory authorization;
   b. The fact that the appellant was not legally represented;
   c. The personal circumstances of the Appellant and the financial difficulties which he described at the Hearing;
   d. The breakdown of fees of Counsel.

6. Having regard to the foregoing the Tribunal determines that an award of costs in the sum of €10,327.50 is equitable and appropriate and authorises the Registrar give a certificate in that amount under Section 57AE of the Act if so requested.

Dated: 26 September 2016

Signed: The Hon. John D. Cooke S.C. Chairperson, _____

Signed: Treasa Kelly, Registrar _____