

IN THE DISTRICT COURT
AT AUCKLAND

CRN 2006-004-502539
CRI 2006-004-013973

THE COMMERCE COMMISSION

v

IAG NEW ZEALAND LIMITED

Hearing: 31 August 2006

Appearances: Ms A Dowgry for the Informant
Ms S Keene for the Defendant

31 August 2006 at 5.00 pm

NOTES OF JUDGE A-M J BOUCHIER ON SENTENCING

[1] It is submitted that the Court must consider in the round the totality of the conduct giving rise to the breach, and appropriate penalty involved. The authorities dictate the reasonableness of the agreed approach. Therefore for the two groups of charges, each of the parties are in agreement as far as the penalty involved.

[2] Having had the opportunity to read, consider the submissions of both parties, and to hear them highlight the major matters in the whole case, I am of the view that, looking at each of the submissions, this is not a situation of complete recklessness. I accept that in a large corporation it is difficult to entirely manage the training of staff, where there is a high degree of turnover among staff, and to ensure the continuance of quality in the responses to the public. But that, of course, must be

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balanced against the fact that everyone, including the defendant as they acknowledge, must comply with this Act.

[3] Of course the company has been co-operative. They have put in place compliance measures and pleaded guilty at, it must be said, a very early stage of the proceedings. All of which they receive the proper credit for.

[4] Accordingly, on the 20 charges prior to 11 June 2004, the company will be convicted and fined the sum of \$3,350 plus Court costs of \$130. On the group of charges after that date the company will be convicted and fined the sum of \$6,000 and Court costs of \$130. On information 2563 there will be an order for costs in the sum of \$10,000.

A handwritten signature in black ink, appearing to be 'A-M J Bouchier', written in a cursive style.

A-M J Bouchier
DISTRICT COURT JUDGE