

Media release – Wednesday 22 September

ATTENTION: News Editors, Chiefs of Staff

ANZ first of the banks to face penalty fees class action

Leading class action lawyers Maurice Blackburn will today file with the Federal Court the first of the Bank Fees class actions, against Australia and New Zealand Banking Group Ltd (ANZ Bank).

ANZ is the first bank set to face mass legal action involving three lead applicants and at least 27,199 individuals and businesses holding about 40,000 personal and business accounts. The bank penalty or ‘exception*’ fees imposed by ANZ to customers consist of honour and dishonour fees on bank accounts, and over limit and late payment fees on credit cards.

It is estimated that the total value of the ANZ class action to date is in excess of \$50 million, with the average claim being around \$1,500 per account holder and the range being from hundreds of dollars to over \$35,000. The total claim is for a refund of these unfair fees paid over the last six years (since 2004), plus interest.

A claim has also been made for recovery of exception fees incurred prior to the normal six year limitation period.

Financial Redress has already registered the holders of more than 210,000 accounts as group members to class actions against the twelve banks announced in May.

Maurice Blackburn Chairman Bernard Murphy said: “This first case represents an important milestone as we seek to fight for what’s fair for ANZ customers.”

“Our case against the ANZ is very strong and will allege that charging these exception fees is illegal and that the Bank’s conduct was unconscionable or unfair within the meaning of the ASIC, Trade Practices and Fair Trading Acts. We will argue that fees charged were unjust within the meaning of the Consumer Credit Code.”

The legal action is being funded on a ‘no-win no fee’ basis by litigation funder IMF Australia Ltd and managed by its subsidiary Financial Redress.

Managing Director of Financial Redress, James Middleweek said: “Until very recently the banks were deducting \$1.2 billion a year in unfair exception fees.

“In the court of public opinion, these unfair, excessive fees were already proving indefensible by the banks, so much so that some banks, including ANZ, were forced to reduce or abolish them from late last year.

“It is simply unfair that ANZ Bank could charge, say \$35, for going \$1 over a limit on a credit card when the actual cost is negligible. The fee far exceeds the true cost to the bank,” he said.

“Customers of the twelve banks including ANZ can still register as group members via the Financial Redress website,” he said.

Mr Murphy said: “Today, a compelling legal case has been put forward as to why more than twenty thousand ANZ customers are entitled to compensation.”

Lead Applicant – Mr John Andrews

John Andrews is one of three lead applicants for the case. Mr Andrews had a successful 20 year career in financial services and holds a financial planning qualification. He chose to embark on a small business career, establishing a bookshop and trading as Matilda’s Books. Like most bookstores, more than half of revenue was generated during November and December each year, and at times this led to falling behind on his business overdraft and other accounts.

Mr Andrews had a personal account with another bank which later became an ANZ Bank account. The account had a \$500 overdraft which he found accumulated exception fees every time he went over that limit. He also had a business account with a \$25,000 overdraft facility which also accumulated exception fees – mostly dishonour and honour fees. He had two credit cards linked to his personal transaction account which incurred over limit and late payment fees. He had a third personal credit card with a \$22,000 debt which was ‘frozen’ by the bank after he fell into arrears, this card still has a \$9,000 debt and continues to attract late payment fees. Mr Andrews believes he’s incurred up to \$9,500 in exception fees.

“Originally I was just trying to get some of my money back but now as a lead applicant I see this as an opportunity to stop the banks charging fees which are basically unfair,” he said.

Mr Andrews no longer owns a bookshop and currently works as a sales representative for a small publishing company.

Lead Applicant – Mr Angelo ‘Julian’ Saliba

Mr Julian Saliba is a self employed sole trader who runs his own heritage renovation and extensions business.

He has a business transaction account with the ANZ which has attracted exception fees despite his claim that he addresses his accounts the same day as an unauthorised overdraft occurs.

Mr Saliba has incurred on average \$2,000 a year over the six years in exception fees.

“At the end of each month, I’d sit down to do my BAS return and look through my bank statements. I’d see fee after fee, sometimes up to five exception fees in a day, each one costing \$37. I’d like to get some redress on this issue as I know it doesn’t cost ANZ that much,” Mr Saliba said.

Editors notes:

**exception fees are; honour fees and dishonour fees on bank accounts, late payment fees and over the limit fees on credit cards. They do not include ATM fees or monthly account fees.*

The eleven other banks:

The banks which are potentially defendants in class actions, other than ANZ, are: Bank of Queensland, Bank SA, BankWest, Bendigo Bank, CitiBank, Commonwealth Bank, HSBC, National Australia Bank, St George, Suncorp and Westpac.

It is expected further cases against a number of these banks will be brought in the coming months.

For more information and "frequently asked questions" go to the Financial Redress website www.financialredress.com.au, email info@financialredress.com.au or call 1300 473 373

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