

# NZILE Conference

By Andrew Johnstone of APEARS, Sydney, Australia

What a pleasure it was to be involved in the conference in September. It was a great way to meet many clients and potential clients and hear first hand what issues are affecting your businesses on a daily basis.

I came away from the conference with some new found knowledge, one was that my personality was clearly in the Playful quadrant – thanks to Allie Mooney – and surprisingly in our type of business I was definitely not alone! Another useful tidbit was that if I ever moved to NZ I would not admit to being in any form of relationship with anyone!!

Thank you to all of you who welcomed me and in particular to your various Council Members who did a wonderful job organising such a large event.

## Share Registry Fees

Some readers may recall in the October 2005 Envoy I discussed the fact that one Australian Share Registry was attempting to charge for the processing of share transfers for Estates. Despite their many attempts to get my office to pay these we never have and had simply developed a rejection letter for the rejection letter. Eventually they would bow to pressure and process the transfers.

Their activity was clearly a breach of the ASX listing rules for their instructing companies. In August this year they have announced that "despite their belief that the fees were reasonable and within the law" they were going to immediately desist from charging any fees for transfer processing. The change of heart came around after one too many complaints from executors and their service providers one of which made it to the Sydney Morning Herald and Melbourne Age!!

## Superannuation and Death Benefits

More and more often lately I am being asked to assist with the claiming of a Death Benefit that was part of a Superannuation Policy held by a New Zealander who had been living and working in Australia. We have a compulsory Superannuation regime whereby all employees

of whatever level of employment have a certain part of the salary out into a superannuation fund by their employer. Most of these have as part of their benefits a life insurance component.

The majority of cases that I have been involved with have involved a single person who died without a Will and whose family still resided in New Zealand. They had none or very little in the way of other assets and the family generally did not expect there to be anything. Only when their employee showed superannuation contributions and the name of the super fund does the insurance benefit come to life. These have so far ranged from AU\$25,000 to AU\$700,000.

In these cases it is most likely that no grant can be obtained in NZ and as such a reseat is not possible. We therefore have to apply on behalf of the family for a full grant of Letters of Administration here. Once obtained the funds are then collected from the Fund Administrator. However, this is normally not the end of it. Of course the Tax Office as many different rules applying to these benefits. One of which is that if there are no financial dependents (spouse or children) then the payment is taxed and the marginal rates applicable at the time. This can be quite hefty (up to AU\$190,000 on a recent matter).

If you have any clients that mention a deceased relative in Australia that "had nothing" it may be worth investigating a little bit further than usual.

Regards from Australia  
Andrew Johnstone

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*\* Parts of this article have been taken directly from the Discussion Paper.*

# APEARS

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