

# Dean Evans & Associates Pty. Limited

Investment Advisers & Financial Planners

Privately Owned

(Australian Financial Services Licence No. 245652)

Directors and Representatives:

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1 September, 2014.

Committee Secretary,  
Parliamentary Joint Committee on Corporations and Financial Services,  
P.O. Box 6100,  
PARLIAMENT HOUSE ACT 2600.

Dear Sir/Madam:

Re: **Submission To The Inquiry Into Proposals to Lift the Professional, Ethical and Education Standards in the Financial Services Industry**

Before making my submissions, I would like to explain that I have been providing investment advice for over 33 years.

Dean Evans & Associates Pty. Limited (DEA) was incorporated in February, 1989 and became a Licensed Securities Dealer on 22/2/1989, transitioning to the new licensing regime under the Financial Services Reform Act 2001, on 1/2/2004.

I have an Economics Degree from Sydney University, majoring in Economic Statistics. My studies have included courses in Pure & Applied Mathematics and Automatic Computing. I mention this to demonstrate that I am familiar with the art of "number crunching" and financial mathematical models, including their limitations.

Prior to establishing our business, I worked as a senior authorised representative for a medium sized Licensed Securities Dealer.

I have provided advice and guidance to clients through the worst of the **1987** share crash, the **1989** mini-crash, the subsequent recession of **1990**, the Gulf War of **1990/91**, the Barings Bank collapse of **1995**, the **1997** Asian currency crisis, the **1998** LTCM fiasco, the **2000** "dot com" tech wreck, the Sep **2001** New York terrorist attack, the **2003** Iraq war, and more recently, the **2007/2008** global share crash that heralded the Global Financial Crisis (GFC).

Despite all these upheavals, I have enjoyed client continuity for over 30 years, and a growing referral base. In some cases, I have advised across three generations of one family.

In our Financial Services Guide (FSG), it states that "*We market strategies to clients, not products. We only recommend an investment or strategy after considering its suitability for your individual investment objectives, financial situation and needs*".

## 2014 Covering Letters

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We do not advertise our services. Most of our business comes from personal client referrals, as well as solicitors and accountants we have come to know over the years.

### REQUEST FOR SPECIFIC EXEMPTIONS FOR ADVISERS AGE 60 AND OVER

Advisers who have more than 20 years experience, and are still advising beyond age 60, are doing so because they have a commitment to loyal and trusting clients who have been exposed to the adviser during the best and worst of financial times. Indeed, continuity of clients is the true litmus test.

#### Education

I agree with the current view that a relevant degree should be the future minimum starting point for entry to the financial advice industry. Although I have an Economics Degree from Sydney University, with a useful mathematical bias, I consider the holder of **any** degree has demonstrated an ability to apply oneself to an external course regimen. Once formally qualified, they have proven they are capable of focus and study of a set course, within a specified time frame, usually 3-5 years.

However, it is often forgotten that such formal education merely provides a useful structure upon which the practitioner may build. ***It is the framework into which the meat of practical experience is packed over time.***

The real benefit for the adviser (and ultimately the client) comes from this practical experience, gleaned from the “coal-face” of financial planning and investment advice. That is why it is crucial to have new advisers under the wing of more experienced advisers, for a considerable time, so that (1) they may be trained emotionally to deal with clients throughout various market cycles, and (2) learn to devise practical strategies for clients and so nurture them through the worst of market cycles.

I would rather employ someone with a basic degree (and several years of practical experience), than a “fresh-faced graduate” with unrealistic remuneration expectations and a string of untested degrees.

In other words, I value my clients far too much to have their investment capital exposed to a novice’s learning curve. If I was seeking an adviser, I would want someone who has been “battle tested”, someone who has lived and suffered through any number of financial crises. During bull markets, a blind man and his dog can look like a genius. Why? Because when the tide comes in, all ships rise.

Conversely, and to quote Warren Buffet, it is only when the tide goes out that you can see who is swimming naked...

#### Taxation Knowledge

The current legislation already imposes an obligation whereby the adviser must have a sound understanding of the tax implications of any advice given.

I challenge anyone to give me an example of advice where there is no direct or indirect reference to a potential taxation consideration. From the very outset, we have included in our Financial Services Guide (FSG) and our Statement of Advice (SOA) the following clause, in bold and italicised:-

***“Although incidental tax advice is provided as part of the recommendation, by law we must state that we are not tax experts. Accordingly, you may wish to consult with a recognised tax expert to establish the specific impact that any advice may have on your overall tax position”***

Ironically, I have had occasion to explain to a “registered tax agent” and “qualified accountant” the tax treatment of the “tax-deferred” component of certain property trust income distributions, as well as the 30% tax offset applying to partial encashments from friendly society bonds, including the formula used to calculate the initial and subsequent partial encashments.

Further, the number of “registered tax agents” who were unaware of the relevance of IT39 and TD 95/60, in the context of financial planning, was surprising.

Finally, I often remind clients that the tax deduction, tax offset, etc. from which they benefit at tax time, is due to the earlier application of a sensible tax planning strategy employed by the client and the adviser. The tax agent is merely the reporting entity.

The above knowledge was gained from many years of practical experience working in these areas and can hardly be quarantined when the overriding objective of the adviser is to pursue strategies that are “in the client’s best interest”.

### Code of Ethics

I find it rather odd that the industry is now focused on having a written “code of ethics” for dealing with clients. If you don’t deal fairly with clients, they find another adviser. Conversely, if you are a reputable adviser, happy clients refer other clients. Word-of-mouth is the best recommendation for any successful business. So, apart from the moral obligation, it is financially rewarding to look after the client.

Basically, no written code of ethics is going to protect the client from the 5% rogue element, common within any profession. The reason why older and more experienced advisers are so successful is because they have their own inbuilt moral compass and code of ethics. One of my clients’ greatest fears is that I will suddenly retire and they will lose a trusted confidant who will be very hard to replace.

There is now a push for advisers to be party to a code of conduct. When this was first mooted, we were more than happy to submit a written code of our own, effectively distilling the ethical and moral practices we have been employing with clients for over 30 years. Unfortunately, the regulators refused to recognise codes supplied by individual Licensees, preferring those submitted by industry bodies such as the FPA (Financial Planning Association).

We are not members of the FPA, by choice. During 33 years of providing investment advice, we have witnessed the birth, re-birth and constant re-inventing of the FPA. To be compelled to join the FPA now just to access an approved code of conduct, would be morally dishonest.

We are, however, members of FinSIA, a body slanted more towards ongoing education, rather than pursuit of a particular political agenda. Unfortunately, I understand that the FinSIA code of ethics is unacceptable.

### SUMMARY

I am seeking the following ***exemptions for financial planners and investment advisers, age 60 and over:-***

- 1) **No new education requirements for such advisers on the basis that they have more than enough experience.**

Furthermore, they will be leaving the industry soon enough and this would provide the final push for many, resulting in even less experienced people to develop and mentor the newer

group coming through. At age 60, with the prospect of retirement looming, enforced formal study would be the last thing they would be contemplating;

2) **Exemption from having to be registered under the Tax Practitioners Board (TPB).**

We have always provided tax advice ***incidental to the provision of financial planning and investment advice***, and recommend clients consult their tax expert on the specific impact that any advice may have on their overall tax position. We do not want to become tax agents or accountants, preferring to work in tandem with them.

There is a current exemption for all advisers until December 2015, but this should become a permanent exemption for advisers age 60 and over, provided that a paragraph similar to that listed under "Taxation Knowledge" (page 2 above), is prominently displayed in both the FSG and SOA;

3) **Exemption from having to join the FPA (or other similar organisation) in order to access a code of ethics.**

There is a saying that you never come across a dishonest looking con-man, so having a perfectly written code of ethics may be emotionally satisfying but will not protect investors from that aforementioned "rogue 5%".

If a code of ethics is to be introduced, it should be from individual Licensees who would be held accountable to their own versions, which directly reflect their business relationship with existing clients.

Note that even within the context of superannuation, there has been specific recognition of, and accommodation made for, the "limited time" frame faced by "older Australians", e.g., the increased maximum concessional super contribution cap (from \$25,000 to \$35,000 p.a.), the extension of deductible super contributions up to age 75 (subject to certain conditions), etc. Accordingly, I am seeking similar, relevant concessions for advisers age 60 and over.

The above matters I believe have been overlooked in the general rush to "do something" and I wish to submit these practical exemptions based on over 30 years of being a successful financial planner and investment adviser.

I do find it offensive that the press consistently puts reputable financial planners and investment advisers in the same category as the recently-reported rogue CBA financial planners, but in order to look after our clients' best interests, we are forced to wear this collateral damage.

I trust the above provides some insight into how older and more practical financial planners, dealing with real people on a daily basis, view this rapidly changing industry.

Kind regards,

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Dean GLYN-EVANS  
Director & Financial Planner