

LUA – CPD Seminar

Basic Principle of Requirements of a Broker

Hobbins v. Skandia/Clearwater

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Presented by: Dr Christine Koo



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HCCA NO. 15 OF 2010

BETWEEN

JEREMY PAUL EGERTON HOBBS

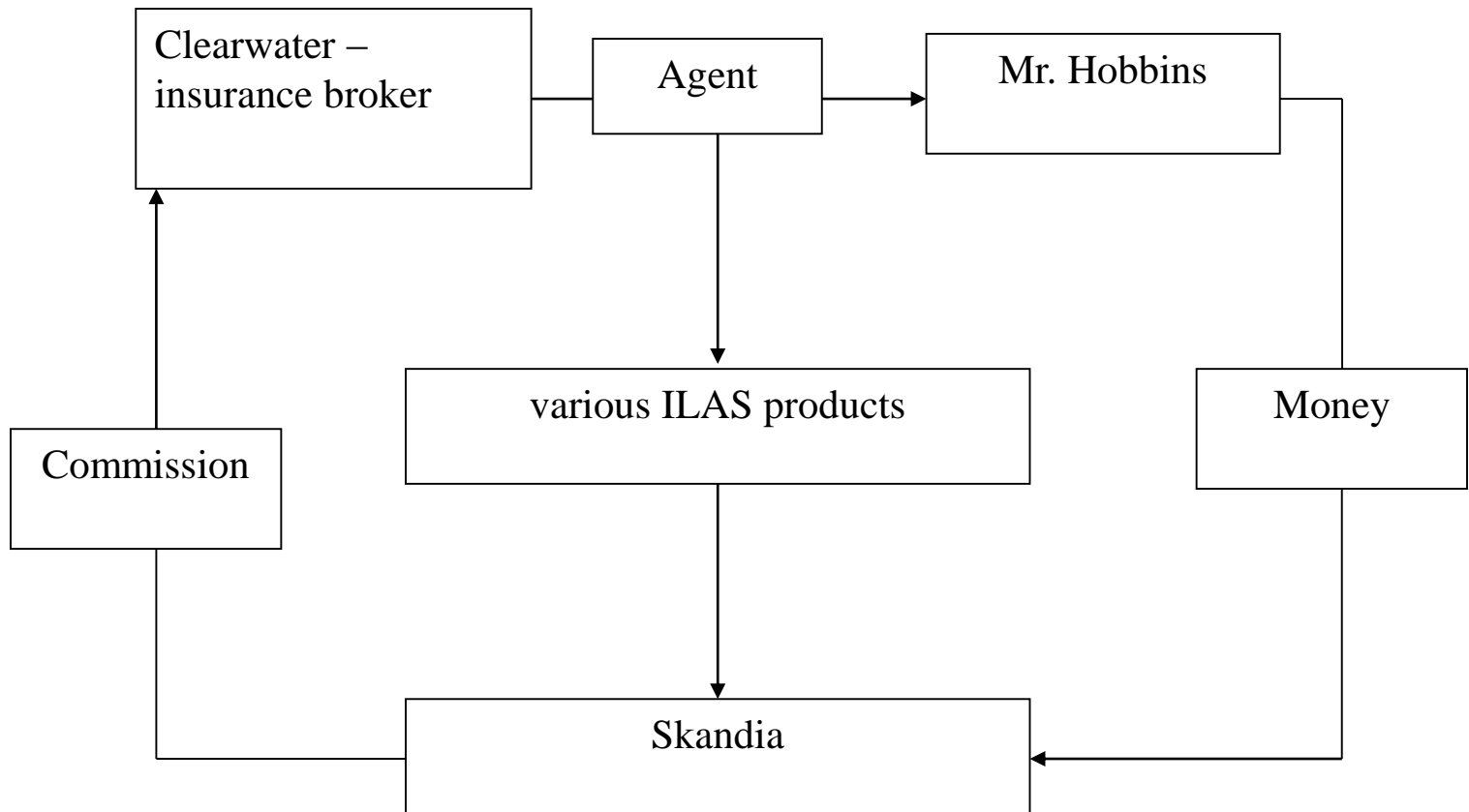
Plaintiff

and

ROYAL SKANDIA LIFE ASSURANCE LIMITED 1st Defendant

CLEARWATER INTERNATIONAL LIMITED 2nd Defendant

Summary of facts



Pl sought:

- restitution (restore his former position to Dec 05) from D1.
- commission earned so far from D2.
- contract void –
illegality/misrepresentation.



Nub of the case (Judge's words)

Whether, as a matter of law, an insurance broker is obliged to disclose HOW MUCH one earns on any particular transaction.



Plaintiff's ground

See Judgment para 57.

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Elements (1)

- Pl – successful businessman,
high-ranking executive.
- experienced in investment products (CIB, MCA, EIB, WPB, IDS, BOSI).
 - Recollection of events hazy. Mr. Keating's evidence more reliable.



Elements (2)

- D2 – Good documentations
- Broker agreements
 - Investment Risk Profiler Questionnaire
 - Questionnaire 05, 06 (update)
 - Report to Pl re commission
 - Client Needs Analysis Questionnaire
 - Client Agreement re product (commission)
 - KYC
 - Contemporaneous note
- Application form concealed information – nothing duplicitous.
- No misrepresentation (meet 67 times over 40 months).



Elements (3)

Judge upset – Cost on indemnity basis.

– Accusation of fraud,
unsupported by

facts.

Points to Note

Proper documentations.

Each ILAS product, one client agreement mentioning commission.

Commission not in excess, “not exceed the usual market rate”.

What If

1. PI old and illiterate in-experience investor.
2. Incentive Bonus.
3. Sell only one Insurer's Product.
(Zurich, Generali, Aviva)
4. CFA decision.

What does PRC Law Say

《保險經紀機構監管規定》

“保險經紀從業人員開展業務，應當向客戶出示「客戶告知書」，並按客戶要求說明佣金的收取方式和比例。”

《保險專業代理機構監管規定》

“保險專業代理機構應當制作規範的客戶告知書。”

“客戶告知書至少應當包括保險專業代理機構以及被代理保險公司名稱、營業場所、業務範圍、聯繫方式等基本事項。”

Q & A Session

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PLEASE NOTE

The law and procedure on this subject are very specialised. This article is a general explanation for your reference only and should not be relied on as legal advice for any specific case. If legal advice is needed, please contact our solicitors.

請注意

本題目之法律及程序十分專門。此文章只屬一般性之解釋，供你參考，而不應被依賴為關於任何特定事件之法律意見。如需法律意見，請與我所律師聯絡。

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