Ontario

FINANCIAL SERVICES TRIBUNAL

GUIDE TO REGULATORY PROCEEDINGS

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Introduction

This Guide to Regulatory Proceedings (**Guide**) has been prepared so that persons[1] who are regulated by the Financial Services Regulatory Authority of Ontario (**FSRA**) better understand how the Financial Services Tribunal (**Tribunal**) conducts proceedings relating to orders, decisions or proposed decisions issued against them by FSRA.

Additional explanatory notes have also been included for persons who do not have legal representation and are representing themselves.

This Guide is a reference tool, particularly for persons who are not represented by a lawyer. It is not intended to provide legal advice and only provides a summary of the important elements of the investigative, enforcement and hearing processes. This Guide is subject to the detailed provisions of the applicable laws and regulations, including the *Statutory Powers Procedures Act*, 1990, c S.22 (**SPPA**), the *Financial Services Tribunal Act, 2017,* c 34 (**FST Act**) and the *Rules of Practice and Procedure for Proceedings Before the Financial Services Tribunal* (**Rules**). The SPPA, the FST Act, the Rules and any other applicable law or regulation will override this Guide in the event of any conflict with this Guide. The Rules may be found at https://www.fstontario.ca/Home/Guide. Applicable legislation/regulations, along with the regulatory framework, may be found at https://www.fsrao.ca/.

The Rules are broadly interpreted by the Tribunal to produce a quick, just and inexpensive determination of the issues before the Tribunal. Accordingly, although we describe in this Guide what generally happens when a hearing by the Tribunal is requested or an appeal is made to the Tribunal, the Tribunal often has flexibility to make adjustments to its process.

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[1] In this Guide, the word “person” also refers to organizations or corporations.

1. What is the Financial Services Regulatory Authority

1.1 FSRA was established under the *Financial Services Regulatory Authority of Ontario Act, 2016*, (**FSRA Act**) to provide regulatory services that protect the public interest and enhance public confidence in the sectors that FSRA regulates.

1.2 FSRA regulates:

- Insurance companies
- Pension plans
- Loan and trust corporations
- Mortgage brokerages, brokers, agents and administrators
- Accident benefit service providers
- Co-operative corporations
- Credit unions and caisses populaires
- Insurance agents, agencies and adjusters

1.3 Under the FSRA Act a Board of Directors appoints a Chief Executive Officer (**CEO**) who shall, subject to the supervision and direction of the Board, be responsible for the management and administration of FSRA.

1.4 The CEO and his or her staff administer and enforce the FSRA Act and a number of other Ontario laws (also called statutes or legislation) which assign powers or duties to the CEO, including:

- *Pension Benefits Act*
- *Insurance Act*
- *Mortgage Brokerages, Lenders and Administrators Act, 2006*
- *Loans and Trust Corporations Act*
- *Credit Unions and Caisses Populaires Act, 1994*
- *Co-operative Corporations Act*
- *Prepaid Hospital and Medical Services Act*

Each statute has a set of regulations that also form part of the law. See the link above in the Introduction section.

1.5 The Tribunal exercises the powers conferred by the FST Act, the SPPA and the other statutes that grant powers to the Tribunal (see paragraph 1.4 above).

2. Monitoring and Investigation by FSRA

2.1 FSRA undertakes a number of compliance, monitoring, investigatory and other regulatory activities to ensure that persons comply with the laws that FSRA administers and that only those who are qualified and suitable are licenced. Some examples of regulatory activities conducted by FSRA include:

- Conducting examinations of individuals who apply for licenses within one of the regulated sectors to determine if those individuals satisfy the criteria to be issued a licence.

- Examining and investigating complaints made against insurance agents, insurance companies, service providers who directly invoice auto insurers for statutory accident benefit claims, mortgage brokerages, mortgage brokers, mortgage agents and other participants in the financial services industry.

- Examining life insurance agent renewal applications to determine if they meet the requirements relating to continuing education and errors and omissions insurance (also known as E&O insurance).

- Regulating pension plans to ensure that they are administered in compliance with filing, funding, notice and other requirements imposed under pension laws and regulations.

2.2 When the CEO discovers that non-compliance or another problem exist, the CEO may take a number of actions. For example, the CEO may:

- Issue a letter of caution advising that regulatory action may be taken in the event of another violation;

- Enter into a settlement agreement, in which case, the CEO and the affected person or persons will reach an agreement about the appropriate resolution of, or sanction for, the non-compliance;

- Issue a Notice of Proposal or Notice of Intended Decision (both of which are, for convenience, referred to in this Guide as a **Notice of Proposal or NOP**) that may lead to a hearing before the Tribunal; or

- Issue an Order that may lead to an appeal before the Tribunal.

3. What is the Financial Services Tribunal

3.1 The Tribunal is an independent, adjudicative body. That means it listens to both sides of an issue and comes to a decision on how the issue should be resolved. The Tribunal has at least 9 members, including the Chair and two Vice-Chairs, who are appointed by the Government of Ontario. The Tribunal exercises the powers given to it by the FST Act, the SPPA and by the other laws that confer powers on or assign duties to the Tribunal (see paragraph 1.4 above).

3.2 The Tribunal is an administrative tribunal and, although it has powers that are similar to a court, it is not a court of law. Members of the Tribunal are called adjudicators (not judges) and form panels of one or three members (**Panel**) who attend and make decisions at hearings and appeals. A Panel makes its decision on the basis of the evidence and submissions, or arguments, that the parties present during the course of the proceeding.

3.3 The Tribunal has exercised its power to make rules for the practice and procedure relating to proceedings before the Tribunal by adopting the Rules that must be followed in all proceedings before the Tribunal.

4. Commencement of a Proceeding

4.1 As noted in paragraph 2.3 above, to deal with a regulatory matter, the CEO may issue a Notice of Proposal or NOP that may lead to a hearing before the Tribunal if a proceeding is commenced or started by the filing of a Request for Hearing. NOPs describe what action or actions the CEO is proposing to take such as:

- denying, restricting, suspending or revoking a licence or registration;
- seeking a compliance order that requires a person to stop certain activities or orders a person to perform certain acts that are necessary to remedy or fix the non-compliance; or
- imposing an administrative monetary penalty in the case of an alleged or claimed breach of a law or regulation;
- refusing to make an order that has been requested; or
- ordering a payment or other action to comply with the law, a regulation or an affected pension plan.

4.2 An NOP also describes how the person receiving the NOP may request a hearing before the Tribunal to challenge or disagree with the CEO's proposal. Such a challenge requires the person who has received the NOP **(Applicant)** to complete and file a Request for Hearing with the Registrar of the Tribunal (**Registrar**). The Applicant must complete the Request for Hearing on Form 1, a copy of which is provided with the NOP. Form 1 requires the Applicant to briefly describe the reasons for the Applicant's disagreement with the CEO's proposal and describe what decision the Applicant would like the Tribunal to make instead.

4.3 The completed Request for Hearing must be filed within 15 days of the date of the NOP or within such other period as may be set out in the NOP.[2] If it is not filed within the proper period, the CEO may carry out the proposal set out in the NOP without further notice. If the Request for Hearing is properly filed, the Tribunal will hold a hearing to determine whether or not to direct the CEO to carry out the proposal or to instead substitute the Tribunal's decision as the appropriate result in the circumstances. The Tribunal may impose conditions if it considers them appropriate.

4.4 A proceeding may also be commenced or started by a person who wishes to appeal (**Appellant**) a decision or order of the CEO. In that case, the person must

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[2] For example, in certain pension matters, 30 days are allowed to request a hearing. The Notice of Proposal will state the actual time period.

complete and file a Notice of Appeal on Form 2 within the time limit set out in the law that establishes the right of appeal.

4.5 Although proceedings that are commenced by a Notice of Appeal do not generally involve the calling of evidence or bringing evidence to prove the Appellant's position, they otherwise generally follow the same rules as proceedings commenced by a Request for Hearing and, because of this, they are not discussed in detail in this Guide.

5. Legal Representation and Settlement

5.1 Persons who are subject to enforcement proceedings (for example, persons who receive an NOP from the CEO) may choose to represent themselves or hire a lawyer or paralegal to represent them at their own expense. The names of lawyers or paralegals can be obtained from the Lawyer and Paralegal Directory operated by the Law Society of Ontario at www.lso.ca or by calling the Lawyer Referral Service at (416) 947-3330 or 1-800-268-8326. Any person who wants to be represented by someone who is not licensed as a lawyer or paralegal should contact the Law Society of Ontario to determine if such a person is exempt from the licencing requirements under the Law Society's by-laws.

5.2 At any time after the commencement of an investigation and prior to the completion of the proceeding, an Applicant/Appellant may approach the CEO's staff (not the Tribunal) to determine if a settlement would be possible. By settling a possible or active proceeding, an Applicant/Appellant may be able to negotiate less severe sanctions and avoid the expense, stress, and uncertainty of the outcome if the matter proceeds to a hearing or appeal.

Recommendations for self-represented parties

- Although it may often be better to have a lawyer or paralegal with the required experience represent you, as procedural and legal issues may be complicated, you may represent yourself at the hearing.
- It is important that you understand the enforcement process, including how hearings are conducted or held. To help you understand the process, you should download and read copies of the Rules which can be found on the Tribunal's website (see link provided above in the Introduction section).
- If a hearing will take place, make sure that the Registrar has your full address, telephone number and e-mail address so that you can receive documents and notices on a timely basis.
- If you have started the hearing process without a lawyer or paralegal but decide later to have legal representation, please advise the CEO's counsel and the Registrar as soon as possible.

6. Withdrawal

6.1 An Applicant or an Appellant may withdraw a Request for Hearing or a Notice of Appeal:

(a) at any time before the hearing, by signing and filing a Withdrawal/ Discontinuance form (Form 5) with the Registrar and serving the Form on the other parties; or

(b) during the hearing, by bringing a motion asking for the permission of the Tribunal to withdraw.

6.2 A party responding to a Notice of Hearing or Notice of Appeal may discontinue participating in the proceeding:

(a) at any time before the hearing/appeal, by signing and filing a Withdrawal/ Discontinuance form (Form 5) with the Registrar and serving the Form on the other parties; or

(b) during the hearing/appeal, by bringing a motion asking for the permission of the Tribunal to discontinue.

6.3 Although it is rare, a party who withdraws or discontinues may be ordered to pay costs to another party, i.e., pay some or all of the money that the other party had to spend to prepare for the hearing and/or pay all or some of the Tribunal's costs. Part X of the Rules sets out the process for such cost orders.

6.4 Proceedings may also be discontinued by the mutual agreement of the parties through a settlement confirmed with the Registrar.

6.5 If an Applicant/Appellant withdraws a Request for Hearing or Notice of Appeal, the CEO may proceed to issue an Order in accordance with the original NOP or Notice of Appeal without further notice.

7. Preparing for a Hearing

7.1 A proceeding is commenced or started when an Applicant/Appellant files a Request for Hearing or Notice of Appeal (see paragraphs 4.2 and 4.3 above). After the filing, the Tribunal will ask the parties to participate in one or more pre- hearing conferences (**PHC**). The PHC may be held before one or more members of the Tribunal and can be held in person or, more usually, by videoconference. The purpose of the PHC is to allow the Tribunal to address or consider, among other things:

- any preliminary matters or jurisdictional issues;
- the identification and simplification of the issues;
- the preparation of a plan for the disclosure and production of documents (evidence) which the parties intend to use at the hearing;[3]
- the development of an Agreed Statement of Facts and an Agreed Book of Documents, if possible;
- the service of witness statements and any expert witness reports;
- the preparation of written submissions or arguments and/or a book of authorities[4] to be filed by the parties;
- the scheduling of dates for the hearing;
- applications by other individuals or organizations to participate in the hearing; and
- the provision of notice of the hearing.

7.2 Following each PHC, the Tribunal will issue a PHC Memorandum to the parties setting out the pre-hearing procedural steps or activities and deadlines upon which the parties have agreed or which the Tribunal has ordered, including:

- the issues which are to be determined by the Tribunal;
- the dates by which the documents on which the parties intend to rely at the hearing have to be exchanged by the parties;

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[3] The parties are required to fully disclose to or share with each other in advance of the hearing all documents and other evidence (through witnesses) they intend to present and rely on at the hearing.

[4] Legal arguments and supporting case law, legislation, legal articles, etc.

- the preparation of an Agreed Statement of Facts and an Agreed Book of Documents, if possible, which will be filed with the Tribunal and served on the other party or parties by the CEO prior to the hearing;

- the dates by which the list of witnesses of each party has to be provided to the other party together with a brief summary of what each witness will say at the hearing;

- the dates by which the written submissions or arguments of the parties are to be exchanged and filed with the Tribunal; and

- the date or dates and time of the hearing.

7.3 An in-person hearing may be considered, at the discretion of the Tribunal, having regard to health and safety precautions, principles of natural justice and a number of other factors, including:

- the subject matter of the hearing;

- the nature of the evidence, including whether credibility is an issue and the extent to which facts are in dispute;

- the extent to which the matters in dispute are questions of law;

- the convenience of the parties;

- the cost, efficiency and timeliness of the proceeding;

- avoidance of unnecessary length or delay;

- ensuring a fair and understandable process;

- the desirability of facilitating public participation or public access to the Tribunal's process; and

- any other relevant factors affecting the fulfilment of the Tribunal's statutory mandate.

7.4 At least 30 days prior to the hearing, or within such other period as may be ordered in the PHC Memorandum, each party is required to provide the other party or parties (but not the Tribunal) with the names of any witnesses the party

intends to call to testify or produce documents at the hearing and a written summary of what the witnesses are expected to say. The Tribunal may order that certain facts be proved by affidavit and that a witness be examined at the hearing after stating that he or she will tell the truth.

7.5 A party who wishes to make sure a witness will appear at the hearing must prepare a Summons to Witness on the form provided by the Tribunal and submit it to the Registrar for a member of the Tribunal to sign. The party requesting a Summons to Witness must serve it personally on the witness named in the Summons and pay the witness the participation fee prescribed in Appendix B to the Rules. This summons procedure may not be necessary for witnesses who have voluntarily agreed to attend, but if there is any risk that the witness may not attend, the summons procedure is highly recommended and the Tribunal does not charge for the Summons.

7.6 It is not possible to summons or require the CEO or any member of the Tribunal to give evidence. It is also not possible to summons or require any employee of FSRA or any person engaged by the CEO or the Tribunal to testify in a proceeding before the Tribunal without the consent of the CEO.

7.7 If a party intends to present written submissions and/or a book of authorities including, for example, prior decisions by the Tribunal, they must provide copies to the other party and file a further copy (or copies as directed by the Tribunal) with the Registrar at least seven days before the hearing, or within such other period as may be ordered in the PHC Memorandum.

7.8 If a person who has commenced or started a proceeding does not appear at a scheduled PHC or hearing, the Tribunal may (i) proceed with the PHC or hearing in the absence of such person; (ii) dismiss the proceeding without a further hearing or notice; or (iii) give notice of its intention to dismiss the proceeding if reasonable cause (a reasonable reason) for not showing up is not provided within 30 days of the giving of the notice.

7.9 Parties should be careful to protect their own personal information, and should also take care to protect the privacy of third parties like witnesses or uninvolved individuals. Documents that include sensitive information should only be filed if they are material (important) to the case. Examples include documents that include the names, salary information, banking information and social insurance numbers of persons who may or may not be parties to the case. Parties are encouraged to remove or conceal such information from documents when it is not material to the issues in the case.

Recommendations for self-represented parties

- Once a Notice of Hearing or Notice of Appeal has been filed, Applicants/Appellants should gather together and bring to the hearing all documents they intend to present as evidence to support or prove their side of the case, provided copies of these documents have been disclosed and shared with the other side and are not already included in the Agreed Book of Documents.
- Documents that have not been disclosed or shared may be admitted at the discretion of the Tribunal after considering all of the circumstances including whether those documents were readily available and could have been disclosed earlier.
- Applicants/Appellants should also arrange for any witnesses whose testimony they require to be available for the hearing and ask them to review the documents that they or other witnesses will bring to the hearing and be asked to comment on.
- The hearing process should be explained to witnesses who should understand that they will be cross-examined by the other side and that they need to be truthful.

8. Conduct of a Hearing

8.1 In-person hearings take place at the offices of the Tribunal, which are located at 25 Sheppard Avenue West, 7th Floor, Toronto, Ontario, M2N 6S6. The hearing room has a table on either side of the room for the parties, a third table at the front of the room for the Panel and a table behind the Panel for the Registrar. If the Panel is made up of three members, the Chair sits in the middle. The Chair can be referred to as Mr. or Ms. Chair, or they can be addressed by name. Space is also provided for witnesses to testify and for the hearing reporter who records the proceeding and can prepare a written transcript, if requested, at the requesting party's expense.

8.2 The process for electronic hearings is set out in detail in the "Practice Direction – Electronic Hearings" which can be found on the Tribunal website. If your hearing is an electronic hearing it is important that you familiarize yourself with this Practice Direction. While the order of hearing in an electronic hearing follows closely the steps set out in this guide there are significant procedural steps that apply to, and are distinct from, electronic hearings that must be followed by the participants.

8.3 Although seating space is limited, hearings are usually open to the public and the media, although cameras and other recording devices are not permitted. The Tribunal may decide (normally at a party's request) that all or part of a hearing should be held in the absence of the public if intimate financial, personal or other sensitive matters may be disclosed and it is determined that the interests of any affected person, or the public interest, outweighs the desirability of allowing public access to hearings.

8.4 In most cases the Chair of the Panel will ask the parties if they would like to make any opening statements before calling their witnesses. These opening statements are brief summaries of what each party's case is about and what the party would like the Tribunal to decide. The parties are not giving evidence at this point. They are just introducing the Panel to the case they expect to make.

8.5 In most proceedings, the Chair of the Panel will ask each party to present their case during the evidentiary phase of the proceeding. This is an opportunity for parties to present their evidence to the Tribunal through their own testimony and/or that of witnesses. The order in which evidence is presented at the hearing will typically be determined at the PHC. If the proceeding involves an NOP or the imposition of a general administrative penalty, the CEO will usually proceed first. In a pension case, the Applicant usually proceeds first. If the proceeding involves a Notice of Appeal, the Appellant will usually proceed first.

8.6 The parties will be asked to call their witnesses, one at a time, to testify. Normally, if there are multiple witnesses, the Chair of the Panel will make an order to exclude witnesses (other than a witness who is a party) from hearing each other's evidence before it is their turn to testify. This makes sure that

witnesses will not hear the testimony of other witnesses before their own testimony, and will not be influenced by hearing what other witnesses say during the presentation of their evidence. If such an order is made, all witnesses waiting to give evidence will be asked to leave the hearing room until they are called to testify.

8.7 Each witness, including the Applicant, will be asked to affirm that he or she will tell the truth before giving testimony. Witnesses may also introduce into evidence relevant documents with which they are familiar (and which have been disclosed to the other party), provided that the other party does not successfully object to the document being entered as evidence. The evidence provided by each witness will supplement any facts and documents that have been agreed upon by the parties for the purposes of the hearing. The Tribunal may take into account any facts and documents that were agreed upon by the parties, without the need for oral testimony about that document.

8.8 Each party will ask their witnesses questions and the witnesses answers will, subject to objections and cross-examination, be evidence before the Tribunal. When a particular witness has finished giving his or her initial testimony (referred to as evidence-in-chief), the other party will be given the opportunity to question the witness. This questioning is called cross-examination. Reasons for the other party asking questions on cross-examination may include the following: (i) to clarify something that was said during the evidence-in-chief; (ii) to get more detailed information from the witness about their testimony; (iii) to show that an error may have been made in the evidence-in-chief of the witness; or (iv) to show that the witness's testimony is not credible or believable. The members of the Panel may also ask the witness questions. Finally, the party who called the witness will be given the opportunity to re-question the witness, but only to clarify anything that was said during the cross-examination. This is called re- examination or re-direct.

8.9 The following example illustrates the process:

CEO begins

- CEO's witness testifies in chief;
- CEO's witness is cross-examined by the Applicant;
- CEO's witness is asked questions by the CEO in re-examination;
- The same process is followed for each of the CEO's witnesses.

Applicant goes next

- Applicant's witness testifies in chief;
- Applicant's witness is cross-examined by the CEO;
- Applicant's witness is asked questions by the Applicant in re-examination;
- The same process is followed for each of the Applicant's witnesses.

In pension hearings and appeals, the order of calling witnesses is reversed. The Applicant/Appellant calls its witnesses first, followed by the CEO.

8.10 If the Applicant decides to be a witness and is not represented by a lawyer, at the appropriate time he or she will be asked to testify in chief by giving their evidence in a narrative (descriptive), rather than a question and answer, format. Cross-examination by the CEO will follow the usual format and the Applicant would then have the right to clarify or explain issues raised in the cross-examination.

8.11 After the parties have finished presenting their evidence, each party will be invited to make submissions to the Panel. Submissions should review the evidence and give reasons why the Tribunal should support the position of that party on the issues in the proceeding and should refer to applicable legislation and case law (see paragraph 8.12 below). This rule applies even if the Applicant is self-represented and is making submissions with the benefit of personal knowledge of any relevant facts. If certain facts are to be considered by the Tribunal, they must be presented by the Applicant, if he or she testifies, or by a witness during the giving of evidence phase of the hearing, or they must be facts that were agreed upon by the parties for the purpose of the hearing. Ordinarily, only evidence heard by the Tribunal during the giving of evidence phase may be mentioned during submissions.

8.12 The parties should bring to the attention of the Panel any previously decided cases of the Tribunal or the courts that are relevant to the proceeding. Cases can be found, and are available without cost, on the website of The Canadian Legal Information Institute (known as CanLII) at www.canlii.org. A previously decided case may be relevant if it deals with similar facts and legislation or if it sets out principles that a party thinks apply to their case.

8.13 In all but the clearest of cases, the Tribunal will require time to consider the case and will not issue a decision until it has taken the necessary time. In most cases, a written decision is made within 90 days after conclusion of the hearing.

Recommendations for self-represented Applicants/Appellants

- Usually a hearing is divided into three phases. The first phase is called an "opening". That is where the parties have the chance to state in very general terms what the hearing is all about. It is not the time to provide any details or arguments. The second phase is called the "evidence" or the "fact-finding" phase. That is where witnesses are affirmed to tell the truth and present facts and documents. It is concerned with facts and details. All of the facts and details that you need to prove your case must be presented during this phase. The final phase is called the "argument" or "submissions" phase. That is where the case is summarized and each party tries to persuade the Tribunal that they are right. It is not the time to add new facts or documents that were not presented during the second phase of the hearing.
- Applicants/Appellants who represent themselves, i.e., do not have a lawyer or paralegal representing them, must be familiar with and follow the Rules.
- Matters of fact have to be provided to the Panel through an Agreed Statement of Facts and/or through the evidence of witnesses (including the Applicant if they testify) during the evidentiary phase of a hearing. Matters of fact may not be argued unless they have been admitted into evidence.
- If the Applicant/Appellant chooses not to testify, they cannot introduce new evidence in their submissions. Rather they must refer only to factual matters that are supported by the evidence called during the hearing or contained in the Agreed Statement of Facts.
- If an Applicant/Appellant chooses to testify, they must solemnly affirm that they will tell the truth and may be cross-examined by counsel for the CEO and any other parties.
- Researching cases on the CanLII website maybe a difficult task for persons without legal training. To make it easier for Applicants/Appellants, a summary list of Tribunal cases since January 1, 2016 is available on the Tribunal's website at https://www.fstontario.ca/Home/Decisions and is updated from time to time. In addition to this summary list, this link will also direct you to the CanLII website so you can read the full cases and will provide you with a further link to case summaries prepared by Financial Services Commission of Ontario of Pension Commission and Tribunal decisions since 1989.

9. The Decision

9.1 The Tribunal normally issues its decision within 90 days after the conclusion of the hearing. This allows the Panel time to fully consider all of the evidence and the submissions that were presented at the hearing and prepare written reasons for the decision. The Registrar sends the Tribunal's decision and reasons to all parties or their representatives. The Tribunal's decisions are also posted on www.canlii.org. A Tribunal's decision is final and concludes or ends the matter, unless the statute under which it was made allows for an appeal or review by the courts. In some cases a party may ask the Tribunal itself to review its own decision. Reviews are conducted for clerical errors or clear mistakes of fact and must be requested within 10 days of the decision.

9.2 If the conduct or course of conduct of a party in a proceeding before the Tribunal has been unreasonable, frivolous or vexatious[5], or if a party has acted in bad faith, the Tribunal may order that the offending party pay all or part of the other party's or the Tribunal's costs in the proceeding.

For additional information, please see the FAQ section of the Tribunal's website or contact the office of the Registrar by telephone at (416) 590-7294 or by e-mail at contact@fstontario.ca.

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[5] A proceeding is said to be vexatious when the party bringing it is not acting in good faith, and merely wishes to annoy or embarrass his or her opponent, or when it is not calculated to lead to any practical result.