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Senior Employee Cannot Blindly Follow Superior's Instructions

Shazalina Nadiah Binti Salleh v Malaysia Building Society Berhad
(Industrial Court Award No 660 of 2018)

| by Ahmad Addlan Nabil |

The company is a financial institution that, among others, offered a savings account product designed to cater for children.

The management of the product involved two departments: marketing and operations. The employee was the Head of Operations of the Kluang branch and was entrusted with the opening of savings accounts.

In the course of the product's promotion, the Head of Sales and Service of the same branch had devised a number of schemes to attract new customers. The Head of Sales and Service had overall authority, power and responsibility for the product.

Acting in her capacity as Head of Operations, purportedly under instructions from the Head of Sales and Service, the employee approved the opening of savings accounts where the amount entered into the accounts system differed from the actual physical cash deposited, and allowed withdrawals to be made without the presence of the account holder. This was carried out in order to meet the sales target of the branch.

The banking transactions carried out by the employee in relation to the savings account product were not in compliance with the company's procedure and were irregular, and this was within the knowledge of the employee.

The employee attempted to justify her conduct by saying that her actions were carried out pursuant to her superior's instructions. However, the Industrial Court held that:

- (a) As the Head of Operations, she held a high managerial position and a responsibility to ensure that no irregularities took place in her department, notwithstanding that the instructions given by

her superior, the Head of Sales and Service, went against the proper and standard banking transaction procedures.

(b) She was also in breach of her fiduciary duties as an employee in failing to discharge her duties diligently according to the company's internal policies and regulations.

The Industrial Court therefore held that the company was justified in dismissing her.

The company was represented by partner Shariffullah Abdul Majeed and associate Ahmad Addlan Nabil of [Lee Hishammuddin Allen & Gledhill](#).

The Industrial Court award may be viewed [here](#).

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