



Quiz

Civil Penalties imposed by the Federal Courts: Some Quick Tips and Recent Developments

1. Who is able to seek a civil penalty order?
 - a. The regulator administering the statutory scheme
 - b. Any respondent in a civil proceeding
 - c. Any party involved in a criminal proceeding
 - d. The local court

2. What is the purpose of a civil penalty?
 - a. Retribution for the conduct
 - b. Rehabilitation
 - c. Deterrence
 - d. All of the above

3. Which of the following is NOT a 'French factor' identified by Justice French in *Trade Practices Commission v CSR Limited* [1990] FCA 762.
 - a. The nature and extent of the contravening conduct
 - b. Whether there was a loss caused by the conduct
 - c. The deliberateness of the contravention
 - d. Whether the contravener has engaged in similar conduct in the past

4. How did the Full Court in *Australian Building and Construction Commissioner v Construction, Forestry, Mining and Energy Union* [2017] FCAFC 113 indicate that the totality principle should be applied?
 - a. The totality principle should be applied to any matter first, followed by the course of conduct principle
 - b. The course of conduct should be applied to a matter first, after which the totality principle can be applied
 - c. If the course of conduct principle is applied to a matter, the totality principle should not be applied
 - d. The totality principle is a construct of criminal law and should not be applied in the civil jurisdiction

5. What did the Full Federal court note in regard to personal payment orders in *Australian Building and Construction Commissioner v Construction, Forestry, Mining and Energy Union* [2018] HCA 3;
 - a. The underlying purpose for the making of a personal payment order is deterrence
 - b. The court's deterrence must be such as to impose a sting in order for it to be effective
 - c. Both A and B
 - d. The principal consideration in regard to personal payment orders is the deliberateness in which the contravention was made

Answers:

1. A 2. C 3. D 4. B 5. C