

# Brief evidence of Solicitor Adrian Mueller involvement in fraudulent activities in CTTT case SCS 12/32675

Solicitor Adrian Mueller and Strata Plan SP52948 **NSW strata investigations**

It took 11 long and hard years for investigations to be able to make claims as below, without anybody's help (SP52948 Executive Committee, Police, Fair Trading NSW, CTTT, District Court, Office of Legal Services Commissioner, BCS Strata Management, Waratah Strata Management, and ACCC who simply ignored the evidence).

Submitted evidence confirms that Solicitor Adrian Mueller illegally represented SP52948 in CTTT case SCS 12/32675 and continued to act to protect own interests and interest of members of SP52948 committee and strata managers at BCS Strata Management (lost contract with strata plan SP52948 in 2016 thanks to Lot 158 efforts and education of owners and investors) and Waratah Strata Management (since 1 February 2017).

Every URL (web link) is backed up by evidence.

Primary audience are owners (current and previous), tenants, investors, and potential buyers in strata complexes.

Justice McCallum publicly stated:

*Extensive media reporting of allegations of criminal conduct is not a mischief in itself. On the contrary, it is appropriate to recognise that the media play an important role in drawing attention to allegations of criminal or other misconduct and any shortcomings in the treatment of such allegations.*

The rest of the audience is anyone who might be interested in problems with strata schemes in NSW...

There is no website which covers more detailed events related to strata issues with direct evidence than this one in Australia (trust through verification).

1. Evidence satisfies "on the balance of probabilities" requirement for civil legal case,
2. Evidence satisfies "beyond reasonable doubt" requirement for criminal legal case.
3. Solicitor Adrian Mueller created dangerous precedence in two CTTT/NCAT cases (SCS 12/32675 and SC 20/33352) which, based on Australian legal system, allow other parties to use as valid defence (legal precedents). CTTT/NCAT fully co-operated with the Solicitor and effectively rendered NSW strata laws useless, and even allowed Solicitor's representation of large strata plan SP52948 without having any evidence of being approved by owners corporation (in fact, Solicitor was not approved at any legally-convened meeting).

CTTT/NCAT actively supported Solicitor Adrian Mueller's predictive behaviour, conspiracy offence, contempt of court, falsified documents, and insurance claims in two cases in 2012/2013 (SCS 12/32675 and SCS 12/50460, conducted by Tribunal member M. Harrowell) and 2020/2021 (SC 20/33352, conducted by Tribunal member G.J. Sarginson). The precedence means that all evidence of the Applicant can be ignored if the Respondent fails to attend Hearings.

NCAT NSW Civil Tribunal Ongoing Problems

4.

<b>Repetitive efforts by BCS Strata Management and Waratah Strata Management to prevent access to SP52948 documents, as instructed by Solicitor Adrian Mueller</b>
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<u>BCS Strata Management and Solicitor Adrian Mueller preventing access to SP52948 strata documents in November 2012</u> <u>BCS Strata Management and Solicitor Adrian Mueller preventing access to SP52948 strata documents on 5 March 2013</u> <u>BCS Strata Management and Solicitor Adrian Mueller preventing access to SP52948 strata documents on 8 March 2013</u> <u>BCS Strata Management and Solicitor Adrian Mueller preventing access to SP52948 strata documents on 17 October 2013</u>
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<u>BCS Strata Management and Solicitor Adrian Mueller preventing access to SP52948 strata documents on 14 November 2014</u>
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<u>BCS Strata Management preventing access to SP52948 strata documents on 18 December 2015</u>
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<u>Waratah Strata Management preventing access to SP52948 strata documents on 13 June 2017</u>
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<u>Waratah Strata Management preventing access to SP52948 strata documents on 31 May 2019</u>
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<u>Waratah Strata Management preventing access to SP52948 strata documents on 20 September 2019</u>
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Waratah Strata Management and Solicitor Adrian Mueller preventing access to SP52948 strata documents on 14 November 2019 (letter sent to O'Brien Criminal & Civil Solicitors)  
Waratah Strata Management and Solicitor Adrian Mueller preventing access to SP52948 strata documents on 8 June 2022

5.

**Persistent refusal by BCS Strata Management and Waratah Strata Management to co-operate with Police**

Waratah Strata Management refusal to co-operate in SP52948 Police Events  
Examples of threats, intimidation, and harassment of SP52948 Lot 158 to prevent investigations of mismanagement and misappropriation of common funds  
An example of how Uniqueco Property Services ignored complaint about Mr. Moses Levitt on 1 November 2015  
Desperate attempts by Police, Waratah Strata Management, Solicitor Adrian Mueller, and BCS Strata Management to recover lost USB key with SP52948 strata files without disclosure to courts and 218 owners  
Waratah Strata Management coercing Police and Fair Trading NSW  
Waratah Strata Management refusing information about alleged ransomware attack on 11 August 2019  
Waratah Strata Management refusing information about alleged ransomware attack on 17 February 2020  
Fair Trading NSW case 9125004, where BCS Strata Management, Waratah Strata Management, and Solicitor Adrian Mueller failed to co-operate with investigations

6. We believe we can satisfy court that the account given by the accused parties (and any possible defence witnesses) should not be accepted as a version of events that could reasonably be true. Hence, the accused party's guilt is beyond reasonable doubt. The amount of events and actions by the accused parties that some allege to be "pure speculations" are too large and frequent to be coincidental. Solicitor Adrian Mueller, members of the Executive Committee of strata plan SP52948, BCS Strata Management, and Waratah Strata Management have engaged in deliberate, premeditated, and orchestrated efforts to hamper Police, NSW Legal Commissioner, Fair Trading NSW, and NCAT investigations.

In New South Wales, perverting the course of justice carries a maximum penalty of 14 years imprisonment. This offence involves obstructing, preventing, perverting or defeating the course of justice or the administration of the law.

The offence of Perverting the Course of Justice is contained in section 319 of the Crimes Act 1900 which states that a person who does any act, or makes any omission, intending in any way to pervert the course of justice, is liable to imprisonment for 14 years.

To find a person guilty of this offence the prosecution must prove each of the following matters beyond a reasonable doubt:

That the accused did an act or made an omission,

That they did so intent to pervert the course of justice.

Under federal law, there are serious consequences for a person who has been found to forge a signature. Under Section 144.1 of the Commonwealth Criminal Code Act 1995, there is a maximum penalty of ten years in jail for making a false document.

In addition, under section 145.1, if a person knowingly uses a forged document to induce a public official to accept it as genuine, they can face up to ten years' imprisonment.

The law says that "dishonestly obtaining a gain, dishonestly causing a loss, or dishonestly influencing the exercise of a public duty or function" carries a penalty of up to ten years' jail.

7. Solicitor Adrian Mueller was recipient of numerous submissions to Office of Legal Services Commissioner with evidence of his misconduct and unprofessional conduct.

- Not only Solicitor refused to co-operate with the OLSC office, but openly lied to them as well:

Sent without prejudice and to save further costs. The recipients of this document are strongly urged to read it carefully and take actions in accordance with laws. If the case proceeds to court, Lot 158 reserves the right to present it to all parties, including all owners, tenants, and investors in the complex who have vested interest in the case and where their hard-earned money goes, along with all other unredacted evidence, and seek judgements based on facts.

**Narrative 1 - Current Office of Legal Services Commissioner case CAS006791 and pending submission in person for Crime Stoppers Event 648467: Solicitor Adrian Mueller: professional misconduct, involvement in fraud, falsified evidence and false representation in CTTT cases SCS 12/32675, SCS 12/50460, and SCS 13/50737 (NCAT case SC 20/33352 will be submitted separately), false representation in District Court case 13/360456, refusal to co-operate with OLSC in three submissions (41368, 56561, CAS005901), persistent contempt of court through willful disobedience to, and disregard of, court orders and misconduct in the presence of courts and Tribunals (in period 2012 to 2021, Solicitor Adrian Mueller failed to comply with CTTT/NCAT orders for the Hearings six times), refusal to co-operate with Police Event E65804633 and NCAT in case SC 20/33352 by withholding evidence and coercing the Tribunal to ignore evidence of the Applicants without considering it, earnings through proceeds of crime, and serial litigator with intention to harass (including being silent witness of stalking, exposure to ridicule, discrimination on religious and nationality basis, being aware of anonymous death threats against Lot 158 and not taking any action to prevent such actions, and more), waste court time, and incur expenses for personal benefits. Solicitor Adrian Mueller not only initiated an abuse of the court processes to gain personal advantage through proceeds of crime but caused harm to other parties (to harass and annoy, to cause delay and detriment).**

**Actions by Solicitor Adrian Mueller obstructed Police investigators, insurance investigators, and other government officials (Fair Trading NSW, CTTT/NCAT, OLSC) and perverted the course of justice, falsified evidence, provided statements knowing they were not factual, earned income through proceeds of crime, and more).**

**Solicitor Adrian Mueller was recipient of formal request "20220209-Re\_OLSC case CAS005901 - Request for Solicitor Adrian Mueller to respond with evidence on 8Feb2022-1750.pdf", as sent by Mr. LOT 158 on 8 February 2022. No reply was received for OLSC or Lot 158.**

#### **Narrative 1 - Substance of Conduct Matter for Solicitor Adrian Mueller**

1. Breach of section 172 LPUL (NSW) - legal costs must be fair and reasonable,
2. Breach of section 178 LPUL (NSW) - non-compliance with disclosure obligations,
3. Breach of section 180 LPUL (NSW) - making costs agreements,
4. Breach of section 185 LPUL (NSW) - certain costs agreements are void ,
5. Misappropriation, caused deficiency in owners corporation SP52948 funds and insurance company's funds,
6. Failure to comply with a requirement under section 371 LPUL (NSW) and failure to assist an investigator in the investigation of a complaint,
7. Breach of section 387 LPUL (NSW) - obstruction of investigator,
8. Breach of section 388 LPUL (NSW) - obligation of lawyers,
9. Breach of sections 3, 4, 5, 6, 7, 12, and 14 of Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015 under the LPUL.


- Solicitor Adrian Mueller stayed silent when accused of fraudulent activities on 1 February 2021.
- Solicitor Adrian Mueller stayed silent when accused of numerous fraudulent activities on 27 February 2022.
- Solicitor Adrian Mueller stayed silent when requested to provide evidence of his alleged activities in NCAT case SC 20/33352.
- Solicitor Adrian Mueller and six versions of his alleged costs in NCAT case SC 20/33352:


Accounting errors, which appears nobody is correcting or checking (including Economos auditors), is also proven by the following fact: total expenses (GST inclusive!) for Solicitor Adrian Mueller in FY 2021 as listed by Waratah Strata Management in their agenda for Annual General Meeting sent on 7 October 2021 on page 108: \$25,714.30. Another version of total expenses (GST exclusive) for Solicitor Adrian Mueller (based on figures in agenda for account code 153200 for Annual General Meeting sent on 7 October 2021 on pages 14 to 17, without costs for barrister Hussein Elachkar, and without alleged defamation costs in FY 2021 which are NOT part of NCAT proceedings and not legally approved at Annual General Meeting 2020): \$19,764.4. Total expenses (GST exclusive) for legal and debt collection fees for all lawyers and solicitors in FY 2021 as listed by Waratah Strata Management in their agenda for Annual General Meeting sent on 7 October 2021 on page 18: \$24,171.90. And yet another version of total expenses (GST exclusive) for Solicitor Adrian Mueller (based on figures in agenda for account code 153200 for Annual General Meeting sent on 7 October 2021 on pages 14 to 17, without costs for barrister Hussein Elachkar, and with defamation costs in FY 2021 which are NOT part of NCAT proceedings and not legally approved at Annual General Meeting 2020): \$23,376.62.

- Submission to Supreme Court: questionable legal costs by Solicitor Adrian Mueller in NCAT case SC 20/33352.
- Lot 158 Affidavit for District Court case 13/360456 which Solicitor Adrian Mueller could not refute with any evidence.
- Lot 158 Statutory Declaration for CTTT case SCS 13/50737 which Solicitor Adrian Mueller forced Lot 158 to withdraw

under duress (direct threats).

- Lot 158 Statutory Declaration for NCAT case SC 20/33352 which Solicitor Adrian Mueller could not refute with any evidence.
- Solicitor Adrian Mueller was sole creator of discriminatory Special By-Law "Unreasonable Communications" which was used six times since 2018 to prevent Lot 158 from enforcing proper management of SP52948 complex, whilst, at the same time, ensuring that Solicitor Adrian Mueller obtains excessive personal financial benefits.
- Solicitor Adrian Mueller coercing NCAT to ignore Lot 158 evidence and dismiss the case SC 20/33352.
- Supreme Court refused to subpoena Solicitor Adrian Mueller to provide evidence for case 2022/00070683. In response, Lot 158 sent the following on 24 June 2022:

From: [redacted] 

To: SCO - Costs Assessment (Shared Mailbox) <costsassessm@justice.nsw.gov.au>  24/6/22, 21:06

Subject: **THANK YOU - POLITE INQUIRY - PART 1** Supreme Court advice on subpoena for Solicitor Adrian Mueller to provide evidence for 2022/00070683

Send Later

Dear Senior Deputy Registrar and Manager of Costs Assessment,

Many thanks for the reply.

Based on the information provided, it seems the process to fight for justice is too complex and costly. We cannot proceed.

Solicitor Adrian Mueller has engaged in frequent and persistent legal action without reasonable grounds for improper purposes (Vexatious Proceedings Act 2008) to not only abuse court processes (there is evidence of his forged files in Statutory Declaration to CTTT and support for strata manager's false statements in Affidavit to District Court, refusal to submit files by due date or afterwards, false representation in courts, and more), whilst making huge profits for himself. At the same time, he was instrumental in causing deliberate harassment and undue stress to other parties.

Thank you nevertheless.

Maybe, one day, somebody will finally take serious look at how Solicitor Adrian Mueller (apparently admitted to Supreme Court) operates. Even judges are not beyond law: Former judge Marcus Einfeld served two years in prison for knowingly making a false statement under oath and for attempting to pervert the course of justice. The case stemmed from the improbable catalyst of a false statutory declaration over a \$77.00 speeding fine.

Regards,

On 24/6/22 12:23, SCO - Costs Assessment (Shared Mailbox) wrote:

Good Afternoon

Thank you for your email.

As the costs assessment process is not a court process as subpoena cannot be issued.

It is a matter for you to lodge an application to review the original costs assessors determination within the 30 day statutory timeframe to have the application automatically referred to a review panel for consideration and determination.

- Solicitor Adrian Mueller accessory to threats, intimidation, discrimination, and harassment of Lot 158.

8. It is alleged that BCS Strata Management and committee members committed fraudulent activities in five insurance claims for Solicitor Adrian Mueller. SP52948, though Solicitor Adrian Mueller, provided deliberately false statements (lied) to CTTT, Fair Trading NSW, NCAT, Office of Legal Services Commissioner, District Court, and Supreme Court... Losses to owners corporation: above \$160,000.00, losses to Lot 158 due false statements provided by Solicitor Adrian Mueller in Statutory Declaration to CTTT in case SCS 12/32675, and Affidavits to District Court in case 2013/360456 and Supreme Court case CA2022/70683: close to \$100,000.00, massive increase of insurance premiums for owners corporation due to their high-risk litigation (they were even warned by CHU Insurance in advance), and so on. In 2017, CHU Insurance figured out some problems (they also did not have the full evidence) and requested that SP52948 repays \$8,800.00 to them (for claims made in 2012 and 2013), and in 2022/2023 insurance forced repayment in amount of \$19,498.54:

The effect of Solicitor Adrian Mueller's actions and SP52948 insurance premiums in 2012/2013 and 2022 are irrefutable:



SP52948 Financial Year between 1 September and 31 August the following year	Insurance Premiums (years 1997 to 2016 are GST exclusive and from 2017 GST inclusive)	Difference to Previous Year	Comment	Insurance Commissions Paid to Strata Manager
1997	\$34,128.00			
1998				
1999	\$33,799.00	0.00%		
2000	\$33,721.00	-0.23%		
2001	\$45,277.65	34.27%		
2002	\$46,879.00	3.54%		
2003	\$52,841.00	12.72%		Raine & Home Strata Management not allowed to receive insurance commissions
2004	\$49,044.00	-7.19%		Raine & Home Strata Management not allowed to receive insurance commissions
2005	\$40,002.00	-18.44%		Raine & Home Strata Management not allowed to receive insurance commissions
2006	\$43,139.41	7.84%		Raine & Home Strata Management not allowed to receive insurance commissions
2007	\$42,962.77	-0.41%		Raine & Home Strata Management not allowed to receive insurance commissions
2008	\$38,583.00	-10.19%		Raine & Home Strata Management not allowed to receive insurance commissions
2009	\$42,940.00	11.29%		Raine & Home Strata Management not allowed to receive insurance commissions
2010	\$43,324.00	0.89%		BCS Strata Management not allowed to receive insurance commissions
2011	\$44,558.00	2.85%		BCS Strata Management not allowed to receive insurance commissions
2012	\$48,410.00	8.64%		BCS Strata Management not allowed to receive insurance commissions
2013	\$78,409.00	61.97%	Two insurers declined to quote due to high risks, four insurance claims for Solicitor Adrian Mueller (strong evidence includes alleged false statements by BCS Strata Management in Statutory Declaration to CTTT on 19 April 2013, false statement in Affidavit to District Court on 31 January 2014, four different versions of the same Standard Costs Agreement with Solicitor Mr. Adrian Simon Mueller, secret change of the insurance policy for SP52948 and then claiming amount of \$24,919.31 (plus GST) for non-existent "defence" of Lot 3 at CTTT in 2012/2013 without owners corporation full disclosure or decision at any general meeting, false written statements to CTTT by selective EC members), CHU Insurance forced partial repayment in amount of \$8,800.00 without having full access to strata files and evidence in 2017)	BCS Strata Management not allowed to receive insurance commissions
2014	\$69,649.00	-11.17%		BCS Strata Management not allowed to receive insurance commissions
2015	\$70,925.00	1.83%		BCS Strata Management not allowed to receive insurance commissions
2016	\$64,395.00	-9.21%		BCS Strata Management not allowed to receive insurance commissions
2017	\$72,500.00	12.59%		BCS Strata Management not allowed to receive insurance commissions
2018	\$83,053.51	14.56%		\$6,084.84 paid to Waratah Strata Management
2019	\$89,520.33	7.79%		\$6,570.16 paid to Waratah Strata Management
2020	\$81,921.44	-8.49%		\$6,084.84 paid to Waratah Strata Management
2021	\$96,145.39	17.36%	Solicitor Adrian Mueller fully involved in forcing insurance claims for his alleged work	\$5,633.62 paid to Waratah Strata Management
2022	\$108,193.26	12.53%	Insurance claim for Solicitor Adrian Mueller (on 25 March 2022 Waratah Strata Management listed revenue from insurance claims in amount of \$19,758.14 in Income & Expenditure Report). Insurance broker forced SP52948 to pay extra \$1,617.37 as per invoice dated 9 August 2022, which Waratah Strata Management did not pay in FY 2022, but moved into new financial year starting 1 September 2022	\$6,541.55 paid to Waratah Strata Management
2023	\$161,569.59	49.33%	Insurance renewal was due on 21 September 2022 but paid on 26 September 2022 (creating risk of uncovered common property for period of six days)	\$6,541.55 paid to Waratah Strata Management

9. The effects of Solicitor Adrian Mueller's actions and SP52948 negative balances since 1 February 2017 (when Waratah Strata Management took office) are irrefutable:

Date	Admin Fund Balance	Comment
31/01/2017	\$129,704.57	Change BCS Strata Management to Waratah Strata Management
28/02/2017	\$288,552.51	
30/04/2017	\$135,012.17	End of FY quarter
31/07/2017	\$152,916.30	End of FY quarter
31/10/2017	\$100,815.56	End of FY quarter
31/12/2017	\$182,979.04	
31/01/2018	\$108,936.47	End of FY quarter
30/04/2018	\$123,012.91	End of FY quarter
31/07/2018	\$145,119.88	End of FY quarter
31/10/2018	\$80,599.23	End of FY quarter
31/12/2018	\$158,913.31	
31/01/2019	\$84,559.32	End of FY quarter
30/04/2019	\$99,934.95	End of FY quarter
10/07/2019	\$158,181.40	
31/07/2019	\$148,247.36	End of FY quarter
31/08/2019	\$167,231.72	
12/09/2019	\$202,523.24	
12/10/2019	-\$80,003.34	
17/10/2019	-\$131,852.25	Day of Annual General Meeting
31/10/2019	\$37,259.31	End of FY quarter
14/12/2019	\$145,404.20	
31/12/2019	\$100,772.58	
25/01/2020	\$87,537.36	
31/01/2020	\$81,654.32	End of FY quarter
17/04/2020	\$94,415.82	
30/04/2020	\$85,707.93	End of FY quarter
30/07/2020	\$96,907.38	
31/07/2020	\$96,907.38	End of FY quarter
05/10/2020	\$150,004.16	
10/10/2020	\$155,409.14	
13/10/2020	\$48,166.76	
16/10/2020	\$16,253.12	
27/10/2020	\$14,497.09	
31/10/2020	\$8,368.92	End of FY quarter
13/12/2020	\$67,317.74	
31/12/2020	\$55,699.04	
31/01/2021	-\$18,794.90	End of FY quarter
30/04/2021	-\$25,254.77	End of FY quarter
25/04/2021	-\$24,560.03	
31/07/2021	-\$22,323.34	End of FY quarter
28/10/2021	\$1,019.14	Day of Annual General Meeting
31/10/2021	-\$120,210.65	Three days after Annual General Meeting, End of FY quarter
08/12/2021	\$1,263.46	
24/12/2021	-\$49,429.69	
31/12/2021	-\$49,429.69	
10/01/2022	-\$53,002.08	
12/01/2022	-\$112,530.07	
24/01/2022	-\$112,421.07	
30/01/2022	-\$116,068.14	
31/01/2022	-\$123,708.05	End of FY quarter
27/02/2022	\$21,931.68	
11/03/2022	-\$16,236.00	
19/03/2022	-\$23,536.87	
24/03/2022	-\$28,287.34	
13/04/2022	-\$61,745.99	
23/04/2022	-\$86,877.20	
30/04/2022	-\$93,147.13	End of FY quarter
31/07/2022	-\$61,290.46	End of FY quarter
07/10/2022	-\$131,239.39	
10/10/2022	-\$167,486.93	
27/10/2022	-\$203,914.85	Day of Annual General Meeting
31/10/2022	-\$203,913.63	End of FY quarter
04/11/2022	-\$22,211.27	Four days after collection of new levies in amount of \$187,502.16
16/11/2022	-\$60,224.67	
14/12/2022	-\$118,269.42	
25/12/2022	-\$130,200.95	
21/01/2023	-\$134,323.44	Monthly payment to Uniqueco Property Services in amount of around \$28,000.00 and third reimbursement to insurance company in amount of \$4,545.45 are not listed in accounting files by Waratah Strata Management for January 2023
25/01/2023	-\$166,116.59	\$28,311.75 listed as payment to Uniqueco Property Services
31/01/2023	-\$166,111.44	Third reimbursement to insurance company in amount of \$4,545.45 are not listed in accounting files by Waratah Strata Management for January 2023

To raise further concerns, SP52948 extract from minutes of EC meeting on 23 September 2021 documents shortage of \$1,515,541.00 in Capital Works Fund against the forecast in April 2017 that was allegedly approved without general meeting:

## 2 FINANCIAL REPORT

That the financial reports for the current financial year were tabled and discussed.

It was noted that the Capital Works Forecast Report prepared in 2017 suggests that the current balance of the Capital Works Fund should be \$2,550,035 and that the actual balance of the Capital Works Fund is \$1,034,494. It was resolved that an updated Capital Works Forecast report be obtained as soon as possible. If the report is received prior to the AGM agenda being issued, the proposed Capital Works levy in the budget will be adjusted in accordance with the report. If the report is not received prior to the AGM agenda being issued, then the budget will be issued as tabled and the recommendation discussed at the AGM.

Resolved that subject to the above comment the proposed budget tabled at the meeting is to be presented at the 2021 AGM.

10. False statements are a very serious offense in their own right. Deliberate lying in a Statutory Declaration is punishable by up to five years in prison, according to the NSW Oaths Act. Former judge Marcus Einfeld served two years in prison for knowingly making a false statement under oath and for attempting to pervert the course of justice. The case stemmed from the improbable catalyst of a false statutory declaration over a \$77.00 speeding fine.
11. CTTT Tribunal member Mak Harrowell made decision on 8 November 2013 based exclusively on Statutory Declaration prepared by Solicitor Adrian Mueller for BCS Strata Management Peter Bone that contract with Solicitor Adrian Mueller was allegedly signed on 25 July 2012 without knowledge there were four versions of Solicitor Adrian Mueller's Standard Costs Agreement:

84. This case is referring to a ratification of the acts of agent. Clearly the first resolution (motion 2 in the notice of meeting of 26 April 2013) is not a motion to ratify the actions of an agent or subordinate authority. Rather, it is a motion to approve the actions of the Owners Corporation through the Executive Committee taken on 9 July 2012 which the Owners Corporation has conceded in this application was not validly passed.
85. In my opinion, insofar as motion 2 sought to ratify the appointment of the lawyers to act on behalf of the Owners Corporation it was ineffective to do so. An Executive Committee cannot, in my opinion, use principles of ratification to validate an invalid resolution which the Executive Committee attempted to pass some 9 months earlier.
86. However, there was a second motion (motion 3) which sought to ratify the acts of the strata managing agent (being the actions of Mr Web in signing the costs agreement and the actions of Mr Bone in sending the cost agreement to the lawyer) in entering the costs agreement on behalf of the Owners Corporation with the lawyer.
87. For the reasons indicated above, in my view ratification was unnecessary. However, if I am incorrect in the view expressed above, in my view the resolution of the Executive Committee past 26 April 2013 would constitute a ratification of the acts of its appointed strata managing agent. The actions are "clear adoptive acts" by the Executive Committee which had power (if a valid resolution had been passed July 2012) to enter into the cost agreement with the lawyer without the need for a resolution passed by the Owners Corporation in general meeting.

Four versions of Solicitor's Standard Costs Agreement, of which three are forged documents, directly orchestrated and prepared with assistance of Solicitor Adrian Mueller and BCS Strata Management:

- Solicitor Adrian Mueller's Standard Costs Agreement with Solicitor Adrian Mueller had no signature on behalf of SP52948 when BCS Strata Management initiated official insurance claims for legal costs in spite of CHU Insurance warnings about high risks on 28 August 2012 (full document [here](#)):

#### Initialisation of insurance claim on 28 August 2012

BCS Strata Management initiating insurance claim process for legal expenses on 28 August 2012, backdated to 8 August 2012 when Executive Committee and BCS Strata Management engaged Solicitor Mr. Adrian Mueller without approval of owners corporation. Document title in strata files is "legal defence costs claim\_20170131144949". This document does not have signature in Standard Costs Agreement:


##### I. Authorisation to Transfer Money from Trust Account

You authorise us to receive directly into our trust account any judgment or settlement money, or money received from any source in furtherance of your work, and to pay ourselves our costs, disbursements and expenses in accordance with the provisions of clause 88(3)(a)(i) of the *Legal Profession Regulation 2005*.

Signed:

Client

Date



16 July 2012

Solicitor

Date

- Solicitor Adrian Mueller provided his Standard Costs Agreement which had no signature on behalf of SP52948 to CTTT on 29 January 2013 (full document [here](#) and Lot 158's complaint to CTTT about Solicitor Adrian Mueller not providing any files by due date on 28 January 2013):

## Solicitor's submission to CTTT on 29 January 2013

The following screenshot was part of submission sent by Solicitor Mr. Adrian Mueller, allegedly representing strata plan SP52948 to CTTT on 29 January 2013. Of special importance is the fact that the Solicitor's Standard Costs Agreement on page 19 did not contain signature on behalf of strata plan SP52948, hence no legal approval to engage him:

I. **Authorisation to Transfer Money from Trust Account**

You authorise us to receive directly into our trust account any judgment or settlement money, or money received from any source in furtherance of your work, and to pay ourselves our costs, disbursements and expenses in accordance with the provisions of clause 88(3)(a)(i) of the *Legal Profession Regulation 2005*.

Signed:	
Client	Date
	16 July 2012
Solicitor	Date

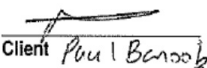
- BCS Strata Management Paul Banoob signature on behalf of SP52948 on Solicitor Adrian Mueller's Standard Costs Agreement backdated to 17 July 2012 but actually created on 16 April 2013 after CTTT hearing request for proof that Solicitor Adrian Mueller had been legally engaged since 2012 (full document [here](#)) - PDF metadata in this document shows that the creation date was 16 April 2013:

### Branch Manager Mr. Paul Banoob secret signed document dated 17 July 2012 that was created on 16 April 2013 (after the CTTT Hearing) – Part 1

The following screenshot was found as part of document in strata files on 13 June 2017, four years after the events. This allegedly signed Standard Costs Agreement titled "JS Mueller Costs Agreement", was never presented to owners, CTTT, Department of Fair Trading, and District Court. It was allegedly signed by Branch Manager Mr. Paul Banoob on 17 July 2012:

I. **Authorisation to Transfer Money from Trust Account**

You authorise us to receive directly into our trust account any judgment or settlement money, or money received from any source in furtherance of your work, and to pay ourselves our costs, disbursements and expenses in accordance with the provisions of clause 88(3)(a)(i) of the *Legal Profession Regulation 2005*.

Signed:	
Client	Date
 AS per Emergency meeting of EC on 9 July 2012	17/7/12
Solicitor	Date



## Branch Manager Mr. Paul Banoob document properties dated 17 July 2012 that was created on 16 April 2013 (after the CTTT Hearing) – Part 2

Document Properties

Description	Security	Fonts	Custom	Advanced
<b>Description</b>				
File:	J S Mueller Costs Agreement-signed-by-Paul-Banoob-17Jul2012			
Title:				
Author:				
Subject:				
Keywords:				
Created:	16/04/2013 9:08:12 AM			
Modified:	23/08/2017 8:57:48 PM			
Application:	ApeosPort-IV C5575			
<b>Advanced</b>				
PDF Producer:	ApeosPort-IV C5575			
PDF Version:	1.3 (Acrobat 4.x)			
Location:	C:\Users\Dusan\Documents\Lorna-Zelenzuk\			
File Size:	228.00 KB (233,470 Bytes)			
Page Size:	8.27 x 11.70 in		Number of Pages:	6
Tagged PDF:	No		Fast Web View:	Yes

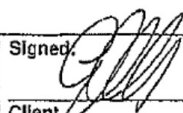

- Solicitor's Adrian Mueller Standard Costs Agreement with signature on behalf of SP52948 in Statutory Declaration prepared by Solicitor Adrian Mueller for BCS Strata Management Peter Bone to CTTT on 19 April 2013 (full document here):

## Strata Manager Mr. Peter Bone signed document dated 19 April 2013 (after the CTTT Hearing) – Part 1

The following screenshot is part of Statutory Declaration by Strata Manager Mr. Peter Bone to CTTT on 19 April 2013. This Standard Costs Agreement was allegedly signed by another Strata Manager Mr. Gary Webb and sent via email by Mr. Peter Bone to the Solicitor. The name of the contract file in BCS Strata Management documents with alleged signature is not what Mr. Peter Bone stated in his Statutory Declaration to CTTT "JS Mueller Standard Cost Agreement 25072012" but actually "JS Mueller Standard Costs Agreement\_20170131144914", as found in strata document search on 13 June 2017:

I. Authorisation to Transfer Money from Trust Account

You authorise us to receive directly into our trust account any judgment or settlement money, or money received from any source in furtherance of your work, and to pay ourselves our costs, disbursements and expenses in accordance with the provisions of clause 88(3)(a)(i) of the *Legal Profession Regulation 2005*.

Signed:		25. 7. 2012
Client		Date
		16 July 2012
Solicitor		Date

## Strata Manager Mr. Peter Bone document properties dated 19 April 2013 (after the CTTT Hearing) – Part 2

Document Properties

Description	Security	Fonts	Custom	Advanced
<b>Description</b>				
File:	JS Mueller Standard Costs Agreement_20170131144914			
Title:				
Author:				
Subject:				
Keywords:				
Created:				
Modified:				
Application:	ApeosPort-II 5010			
<b>Advanced</b>				
PDF Producer:	ApeosPort-II 5010			
PDF Version:	1.3 (Acrobat 4.x)			

The Standard Costs Agreement had to be sent to all owners within seven days after disclosure, as per Strata Schemes Management Act 1996, " 230A Disclosure of matters relating to legal costs

*If a disclosure under Division 3 of Part 4.3 of the Legal Profession Uniform Law (NSW) is made to an owners corporation in respect of the costs of legal services to be provided to the owners corporation, the owners corporation must give a copy of the disclosure to each owner and executive committee member within 7 days of the disclosure being made", and that has never happened even as of June 2020.*

In all four versions of the Standard Costs Agreement, the following is stated: "If you are an owners corporation then you are required to give a copy of our costs disclosure to each owner and executive committee member within 7 days of the disclosure being made in accordance with section 230A of the Strata Schemes Management Act 1996"

12. On 20 May 2013, Lot 158 sent request to Waratah Strata Management for voluntary forensic analysis of alleged signed Standard Costs Agreement with Solicitor Adrian Mueller. This request has never been responded to by BCS Strata Management and Waratah Strata Management (Waratah took office with SP52948 on 1 February 2017):



*Are you willing, voluntarily, to submit the Standard Cost Agreement of Mr. Adrian Mueller that your agency signed on behalf of SP52948 on 25 July 2012 to be forensically analyzed if I provide the official resources?*

*In other words, is your company willing to voluntarily allow the scientific verification if the signature on the document is 10 months old and tampered with in any form.*

13. Since 2013, Solicitor Adrian Mueller should have been aware of, and should have notified owners corporation about, Sadlo v Viceroy Gilead Pty Ltd [2013] NSWCTTT 559 (at [10]):

*"[10] ... the [respondent] opted to be represented by a lawyer. It had no obligation to do so. The tasks involved in providing evidence, and making submissions at the hearing could have been undertaken by an employee or officer of the [respondent]. The [applicants] should not be obliged to pay an expense the [respondent] had no obligation to incur."*

14. Since 2018, Solicitor Adrian Mueller has been aware that he was listed as person-of-interest in Lot 158 submission for fraud. Solicitor failed to provide full assistance to Police, as confirmed in Police Detective A/Inspector, Crime Manager - HVPD, email on 22 August 2018:

From Steven Benson <[REDACTED]@police.nsw.gov.au> @  
To [REDACTED]  
Subject Re: E65804633 for Detective Sergeant Benson on 21Aug2018 [DLM=For-Official-Use-Only]  
22/8/18, 08:21

I have not been contacted by anyone since May. Adrian Mueller to email me regarding his attempt to locate the emails but from memory they were not located.

Regards,

Steve Benson  
Detective A/Inspector  
Crime Manager - HVPD  
Muswellbrook Police Station| Hunter Valley P.D. | NSW Police Force

[REDACTED]

[REDACTED] wrote: -----  
To: Steven Benson <[REDACTED]@police.nsw.gov.au>  
From: [REDACTED]  
Date: 21/08/2018 07:05PM  
Subject: Re: E65804633 for Detective Sergeant Benson on 21Aug2018

Hi Detective Sergeant Benson,

Without intention to waste your time, I take the liberty to ask four closed-ended questions. There is a good reason for them:

- Has anyone, on behalf of Department of Fair Trading, offered any assistance or provided access to eight missing emails to the Police in this case since April 2018?
- Has anyone, on behalf of Hon Matthew Kean MP, Minister for Innovation and Better Regulation, offered any assistance or provided access to eight missing emails to the Police in this case since April 2018?
- Has any party that the Police contacted (namely: Mr Peter Bone, Solicitor Mr. Adrian Mueller, Mr. Robert Crosbie, and anyone else?), offered any assistance or provided access to eight missing emails to the Police in this case since April 2018?
- Has anyone, on behalf of Dr Adrian Carr, PICA Group Manager of Regulation & Licensee-in-Charge (parent company of BCS Strata Management), offered any assistance or provided access to eight missing emails to the Police in this case since April 2018?

*I have not been contacted by anyone since May. Adrian Mueller to email me regarding his attempt to locate the emails but from memory they were not located.*

15. Under pressure from Lot 158, Waratah Strata Management sent secret email to Solicitor Adrian Mueller on 21 June 2019 asking for help to obtain copy of allegedly lost USB key with SP52948 strata files from BCS Strata Management and warning about Lot 158 complaint with Office of Legal Services Commissioner:

The screenshot shows an email from Robert Crosbie to Adrian Mueller. The email discusses a fee proposal, a complaint against the Office of the Legal Services Commissioner, and the preparation of a USB with correspondence. Below the email is a 'List Tool' table showing a list of documents.

From: Robert Crosbie  
To: "Adrian Mueller@muellers.com.au" <[REDACTED]> "Frank Talland" <[REDACTED]>  
Subject: SP 52948, 1-15 Fontenoy Road, Macquarie Park  
Sent: 21/06/2019 10:03 AM  
Re: WITHOUT

Adrian,

We advise your fee proposal was discussed and accepted at last night's strata committee meeting. We advise that your advice is being funded jointly by the OC, Waratah Strata Management and Uniqueco (the building managers) and therefore your advice should be on behalf of all 3 parties.

We do however provide you with the attached email from [REDACTED] which states that he has lodged a complaint against you with the Office of the Legal Services Commissioner. Please advise whether there is any conflict of interest for you in acting on this matter based on this complaint. If yes, please advise how you suggest we should proceed.

We are currently preparing a USB with a copy of all of the correspondence received from [REDACTED] since the 2018 AGM. This will be grouped into those documents that have been issued publicly to owners and those that have just been issued to the committee, strata manager and building manager. We will forward that to you once completed.

On a related issue, we received from BCS at the change of strata managers a USB of their archive records. In April 2018 we provide that USB to the Police who were investigating a complaint lodged with them by Mr Bajevic. Unfortunately the Police lost that USB. (We have the correspondence to support that fact.) We have requested on a number of occasions for BCS to provide us with a copy of that USB (which we assume they will still have in their archive records), with no response. Please advise whether you have any connection with BCS management that may assist in having a copy of that USB provided.

Regards,

Robert Crosbie  
Waratah Strata Management  
P.O. Box 125, Eastwood NSW 2122

Address	Manager	Notes	Show on Portal	Postal Description	Archive Date	User Name	Document ID
Macquarie Gardens, 1-15 Fontenoy Road, Macquarie Park NSW 2113	Frank Talland	Lot 158			13/08/2019 12:25 PM	Robert Crosbie	29759
Macquarie Gardens, 1-15 Fontenoy Road, Macquarie Park NSW 2113	Frank Talland	Lot 158			13/08/2019 12:25 PM	Robert Crosbie	29758
Macquarie Gardens, 1-15 Fontenoy Road, Macquarie Park NSW 2113	Frank Talland	Lot 158			13/08/2019 12:25 PM	Robert Crosbie	29757
Macquarie Gardens, 1-15 Fontenoy Road, Macquarie Park NSW 2113	Frank Talland	SC Minutes			24/06/2019 6:15 PM	Robert Crosbie	19359
Macquarie Gardens, 1-15 Fontenoy Road, Macquarie Park NSW 2113	Frank Talland	Fire Testing			24/06/2019 6:00 PM	Robert Crosbie	19357
Macquarie Gardens, 1-15 Fontenoy Road, Macquarie Park NSW 2113	Frank Talland	Muellers			21/06/2019 10:03 AM	Robert Crosbie	19258
Macquarie Gardens, 1-15 Fontenoy Road, Macquarie Park NSW 2113	Frank Talland	Lot 158			26/06/2019 5:09 PM	Robert Crosbie	19463
Macquarie Gardens, 1-15 Fontenoy Road, Macquarie Park NSW 2113	Frank Talland	Jeffrey Wang re legal action			20/06/2019 4:43 AM	Robert Crosbie	19168
Macquarie Gardens, 1-15 Fontenoy Road, Macquarie Park NSW 2113	Frank Talland	Lot 158			19/06/2019 5:53 AM	Robert Crosbie	19098

Total Files Selected: 1, Total Files: 227

2019-09-20 10:44:56

Transcript of the secret email which was never provided to any owner: *We advise your fee proposal was discussed and accepted at last night's meeting. We advise that your advice is being funded jointly by the OC, Waratah Strata*



Management, and Uniqueco (building manager) and therefore your advice should be on behalf of all 3 parties

We do however provide you with the attached email from Lot 158 which states that he lodged a complaint against you with the Office of Legal Services Commissioner. Please advise whether there is a conflict of interest for you in acting on this matter based on the complaint. If yes, please suggest how we should proceed

We are currently preparing a USB with a copy of all correspondence from Lot 158 since the 2018 AGM. This will be grouped into those documents that have been issued publicly to owners and those that have just been issued to the committee, strata manager and building manager. We will forward that to you once compiled

On a related issue, we received from BCS at the change of strata managers a USB of their archive records. In April 2018, we provide that USB to the Police who were investigating a complaint lodged with them by Lot 158. Unfortunately, the Police lost the USB (We have correspondence to support that fact.) We have requested on a number of occasions for BCS to provide us with a copy of that USB (which we assume they will still have in their archive records), with no response. Please advise whether you have any connection with BCS management that may assist in having a copy of that USB provided

16. Solicitor Adrian Mueller suggested to BCS Strata Management Paul Banoob to use SP52948 insurance claims to pay for his invoices in letter on 2 July 2012, which was logged in BCS Strata Management files as late as 10 July 2012 in spite of knowing that the owners corporation had no funds to pay even the standard bills in that month:

Our Ref: AM:DR:22012  
Your Ref: Paul Banoob

2 July 2012

10 JUL 2012

The Secretary  
The Owners - Strata Plan 52948  
C/- Raine & Horne Strata Sydney  
1, Building D / 240 Beecroft Road  
EPPING NSW 2121

Dear Paul,

**RE: APPLICATION FOR AN ORDER BY AN ADJUDICATOR MADE BY I**

I regret to advise that [REDACTED] has appealed against the decision of Adjudicator Eftimou who dismissed his application.

[REDACTED] lodged his appeal with the Consumer, Trader and Tenancy Tribunal on 15 June 2012 and the appeal is listed before the Tribunal on 8 August 2012 for a directions hearing.

At the directions hearing the Tribunal usually imposes a timetable on the parties to require them to prepare their evidence and submissions and sets the matter down for a final hearing which is likely to be towards the end of the year.

I have briefly perused [REDACTED] appeal application. I assume you have a copy. [REDACTED] has appended a considerable volume of material to his appeal application. For this reason, I estimate that I would charge \$6,600 - \$12,100 to represent the owners corporation in the appeal. This estimate assumes that [REDACTED] will produce more documents to support his appeal during the course of his appeal.

If the owners corporation wants me to represent it in the appeal you should let me know so that I am able to provide you with a costs agreement which sets out the terms of my retainer and will contain more information about my fees and charges.

I note that many strata insurance policies contain cover for legal defence expenses up to \$50,000. You should therefore consult with your insurer about whether or not my legal costs would be covered by the insurer if the owners corporation decides to retain me in the appeal.

If you wish to discuss the matter, please do not hesitate to contact me and I look forward to receiving your instructions.

Yours faithfully  
J.S. MUELLER & CO  
[Signature]

BCS Strata Management had to withdraw money from the other funds secretly. BCS Strata Management Paul Banoob, Gary Webb, Donna Townsend, and Amador Capuno were involved in this secret transaction:



**From:** Paul Banoob  
**Sent:** Wednesday, 4 July 2012 9:32 AM  
**To:** Donna Townsend; Gary Webb  
**Cc:** Amador Capuno  
**Subject:** RE: SP 52948

Dear Amador

Can you please inject funds into SP 52948 from the MBL account in the sum of \$50,000.

Regards

**Paul Banoob**  
Branch Manager

Body Corporate Services

Level 1, Building D, 240 Beecroft Road  
Epping NSW 2121  
Locked Bag 22, Haymarket NSW 1238  
T: (02) 9669 2999  
F: (02) 8216 0331

Enhancing Community Living



Please consider the environment before printing this e-mail

**From:** Donna Townsend  
**Sent:** Wednesday, 4 July 2012 9:23 AM  
**To:** Gary Webb  
**Cc:** Paul Banoob  
**Subject:** RE: SP 52948

Hi Gary,

This invoice has not been paid, the plan has insufficient funds

Donna

**Donna Townsend**  
Creditors Manager

Level 27, 66-68 Goulburn st, Sydney NSW 2000  
Locked Bag 22, Haymarket NSW 1238

17. SP52948 emergency Executive Committee meeting was allegedly organised By Chairperson Mr. Bruce Copland on 6 July 2012 (agenda not sent to owners and even not all members of the committee, and two Executive Committee members were unfinancial due to unpaid levies for second gas connection (Mr. Moses Levitt and Mr. Stan Pogorelsky)):

**From:** Bruce Copland [mailto:bruce.copland@toga.com.au]  
**Sent:** Friday, 6 July 2012 12:48 PM  
**To:** Gary Webb; 'jeffreyC'; 'jhessinkC'; 'JWARD'; 'mcdonald1'; 'zelevi'; 'pogoC'; Paul Banoob  
**Subject:** Re: SP52948

Can we please convene an urgent meeting at anyone's apartment that is available on Monday 9 July at 7.30 PM for no more than 30 minutes for committee members only so I can respond with one voice to our strata manager

Regards,

Bruce

Bruce Copland  
Director, Toga Group  
PO Box 1745, Strawberry Hills NSW 2012

The meeting was allegedly planning to approve Solicitor's costs for attendance at CTTT Directions Hearing (no owner ever received copy of this Standard Costs Agreement). Solicitor Adrian Mueller's email to BCS Strata Management Paul Banoob on 5 July 2012 (the original email attachment has never been found in any document search):

*Letter attached.*

*I would charge about \$1,100-\$1,500 to appear at directions hearing.*

Five years later, extract from Solicitor Adrian Mueller's secret email to Waratah Strata Management on 23 August 2017, showed full awareness of allegations of unpaid levies by several committee members whilst trying to dismiss irrefutable evidence:

#### 3.4 Recent Allegations (Refused damages of \$50,000)

Subsequent to the entry into the deed, [redacted] has sent multiple communications, largely in the form of numerous emails, to members of the strata committee, other owners in Macquarie Gardens and the strata managing agent of the owners corporation making further allegations about past and present strata committee members (**further allegations**). The further allegations centre on claims by [redacted] that certain committee members owe debts to the owners corporation in the form of levies in connection with gas supplied to the lots in which they reside as a result of which those committee members have been and are unfinancial and are therefore ineligible to vote at meetings of the owners corporation or the committee or to hold office as committee members. The further allegations are denied by the relevant committee members and, indeed, the committee as a whole has distributed correspondence to owners refuting the further allegations. [redacted] [redacted] [redacted]

18. Minutes of alleged committee meeting dated 9 July 2012. They contained the following:

**From:** Bruce Copland  
**Sent:** Monday, 9 July 2012 10:18 PM  
**To:** 'GaryW@...', 'Paul.Banoob@...'  
**Cc:** 'Jeffrey@...', 'jhessink@...'; 'JWARD@...'  
'mcdonald151@...'; 'zellew@...'; 'pogo@...'  
**Subject:** RE: SP52948

Paul/Gary

Please find minutes of our meeting held 7.30pm to 8.30pm tonight

**Emergency Committee Meeting of SP52948**

**Held on:** 9th July 2012

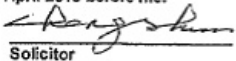
**Location:** Apt 181 Macquarie Gardens

**Present:** John, Sandy, Bruce, Joanne, Stan, Mo

**Apologies:** Maureen McDonald, Jeffrey Wang

**Minutes:**

This is the annexure marked "B"  
referred to in the statutory declaration  
of Peter Bone declared at Epping on  
19 April 2013 before me:



Solicitor

SHUIN CHENG

1. The committee note that Betty Saulits may not have received email notice and we should mail her copies of minutes
2. 6 of 9 members being present a quorum was present.
3. Correspondence from CTTT regarding a directions hearing having been received last Friday urgent decisions regarding response and appearance were discussed.
4. It was unanimously resolved to appoint Adrian Mueller to represent the Owners Corporation at the directions hearing and to enter into an appropriate costs agreement noting that this may incur costs up to \$12,000.
5. It was unanimously resolved to instruct Napier & Blakely to conduct both the building condition survey and the asbestos inspection.
6. The chairman is to ask the managing agent to issue the necessary orders to N&B and sign the appropriate costs agreements after review with the chairman.
7. The building condition report (as soon as available) and AGM minutes (1999) approving water & gas rebates are to be provided to solicitor for production at CTTT.
8. Consideration of the correspondence to owners as part of the AGM and special resolutions concerning legal fees was deferred until after the outcome of the directions hearing.

There being no other business the meeting closed at 8.30 pm

Bruce Copland  
Chairman SP52948

- o Unscheduled Executive Committee meeting was not convened in accordance with the SSMA 1996 Schedule 3 Part 2 Section 7 Clause 1 and 2.
- o The notice did not contain the exact specification where the meeting was to be held and detailed agenda. Non-compliance with the SSMA 1996 Schedule 3 Part 2 Section 6 Clause 3.
- o The agenda was not sent to any owner on the strata roll who were not on the committee in the prescribed timeframe (at least 72 hours (clear-day notice – working days) before the meeting). Even one member of the EC did not get it, which was confirmed in alleged “minutes” on 9 July 2012. Non-compliance with the SSMA 1996 Schedule 3 Part 2 Section 6 Clause 1 and 4.
- o Since the agenda was not sent to owners on the strata roll, it denied the right and natural justice to owners due to non-compliance with SSMA 1996 Schedule 3 Part 2 Section 11 Clause 2.
- o The alleged Executive Committee meeting held on 9 July 2012 did not contain motion to confirm the minutes of the previous Executive Committee meeting. Non-compliance with the SSMA 1996 Part 3 Section 22 Clause a and b.

The alleged Executive Committee meeting held on 9 July 2012 was not attended by the Secretary of the EC (Strata Manager) and he was not even invited to attend. Non-compliance with the SSMA 1996 Part 3 Section 22 Clause f and g.

The alleged minutes of the Executive Committee meeting held on 9 July 2012 were not distributed to owners on the strata roll within 7 days after the meeting or at any time afterwards in following five years. Non-compliance with the SSMA 1996 Schedule 3 Part 2 Section 16.

- o The Minutes of this meeting have never not been recorded in the official Minutes Book of strata plan SP52948. Non-compliance with the SSMA 1996 Section 102.
- o The Minutes of this meeting clearly confirmed intention to submit Motion for special resolution for legal fees at general meeting after CTTT Directions hearing was completed (AGM 2012 proved that such special resolution and

discussion never occurred).

- o Meeting was held in Mr. Stan Pogorelsky's unit (Lot 181), who was unfinancial to vote and be a member of the committee due to unpaid levies in 2012 and 2013 and incorrectly paid gas levies since 1999:

(accounts only) GD Ref: _____	
<input checked="" type="checkbox"/> GENERAL DEBTOR REQUEST / <input type="checkbox"/> CHARGE TO LOT	
SP 52948	Body Corporate for
**If charge is to be allocated to lot please complete below**	
Lot No (if applicable):	
Authorization between body corporate and owner of lot.	YES NO
Name of Debtor	10+S, 147, 148, 163, 167, 181, 182, 3, 59, 62
Address for notice*	68, 102, 127, 44
Contact (ph/email)	
Amount (Excl. GST)*	\$ 100
GST*	\$ 10
Total Payable (Incl. GST)*	\$ 110
Date for payment	1/8/16
Charge Description (to appear on notice) (max characters - 20)	Gas line charges 2012 + 2013
Continuing Charge*?	NO
If YES Charge Frequency*?	Monthly Quarterly Annual
Attachments*	YES NO
To Be Returned*	YES NO
Name of BCM/PA*	

Secret summary by Mr. Stan Pogorelsky of his payments for gas heating, confirming that he never paid \$220.00 (GST inclusive) until 2016, as found in email to Mr. Robert Crosbie at Waratah Strata Management on 27 April 2017:

From: Stan Pogorelsky  
Sent: 27-Apr-17 4:03:35 PM  
To: Robert Crosbie, Mo Levitt  
Subject: FW: SP 52948 - Gas Charges  
Attachments: Financial Status Report\_20170201091851.pdf, 160606 Gas invoice.pdf,

Hi Robert,

That status report was from last year's charges. The first time that we charged the \$220.00 per annum.

I suppose it should be followed up.....

I have a feeling that we may have difficulty from some of them.....

BR,

Stan.

From: Mo Levitt [mailto:\_\_\_\_\_]\_\_\_\_\_  
Sent: Thursday, April 27, 2017 3:53 PM  
To: Robert Crosbie; Stan Pogorelsky  
Subject: FW: SP 52948 - Gas Charges

Robert

Thanks for the information provided

Stan will you please comment that the outstanding amounts should/must be recovered from the owners per the status report above.

BCS did bill the gas usage under a separate account reference and I attach an invoice from them which may be of assistance to locate gas connection payments for other owners.

In secret email to BCS Strata Management on 10 June 2015, Mr. Stan Pogorelsky showed part of his unpaid levies (this information was not presented to any owner or disclosed at any meeting until 2017):

**From:** Stan Pogorelsky [mailto:spog@bcsc.com.au]  
**Sent:** Wednesday, 10 June 2015 4:28 PM  
**To:** Gary Mills  
**Cc:** Stan Pogorelsky  
**Subject:** S & T Pogorelsky - Gas charges paid from 1998 to 2015 - Strata Plan 52948

Hi Gary,

Welcome to BCS. Just to let you know I am on the executive committee of Strata Plan 52948.

You may have seen an email from [redacted] accusing me of not paying my gas charges.

Please can you have a look at the xl that I have attached. It is self-explanatory and in a fair amount of detail.

There is a list of people in our strata who have had gas heaters installed in their units. Russel did work on this and the results should be in your office.

If you can locate this list which lets you know which units have these installed I am sure that most of the units would be missing the same charges as I am.

BCS has neglected to raise these charges on invoices where marked on my xl. We need to raise invoices for these arrear charges as a matter of urgency.

I did pass on to Russell a note from Yigal Zelunzuk – Apartment 3 where he has not paid anything since he moved in.

If you need to discuss this further you can call me on (02) 9439 1111 or my mobile (02) 9439 1111

Regards,

Stan Pogorelsky

In that original version of his unpaid gas heating levies, figures for 2012 and 2013 were clearly listed, but, during document search on 31 June 2019, those figures were redacted and shown as UNPAID whilst failing to modify the rest of the calculations, showing complete oversight of the person who had modified the document (crime always surfaces, eventually):

Stan Pogorelsky			
Gas Charges paid by S & T Pogorelsky on unit 181 - SP52948			
From 1999 to 2018			
Date Paid	Period applicable	\$	
1999	1/9/99 to 31/8/2000		Moved in 1/11/98
2000	23/08/2000	100.00	
2001	1/08/2001	50.00	
2002	21/07/2002	55.00	\$50+\$5GST
2003	31/07/2003	55.00	
2004	1/11/2004	55.00	
2005	1/11/2005	55.00	
2006	1/11/2006	55.00	
2007	1/11/2007	55.00	
2008	1/11/2008	55.00	
2009	26/10/2009	55.00	
2010	24/10/2010	55.00	\$55 Credit on 1/2/11 and Debit \$55 on 2/5/11
2011	7/11/2011	55.00	
2012	1/9/12 to 31/8/13		Not billed by BCS
2013	1/9/13 to 31/8/14		Not billed by BCS
2014	1/08/2014	55.00	
2015	1/09/2015	311.66	See below
2016	3/11/2015	55.00	From our AGM in November 2014 new rate is \$50+\$5 per quarter and should be billed quarterly on BCS statement to unit holders
	1/02/2016	55.00	
	2/05/2016	55.00	
	1/08/2016	18.34	
	20/09/2016	36.66	Overpaid
2017	1/05/2017	220.00	Billed by Waratah
In summary I owe you \$110.00 for 2012 and 2013. And \$18.33 x 2 = \$36.66 for Sept & Oct 2014			
As well you should have billed me for gas usage in			
Quarter 1/11/14 to 31/01/15		55.00	
Quarter 1/02/15 to 30/04/15		55.00	
Quarter 1/05/15 to 31/07/15		55.00	
Quarter 1/08/15 to 31/10/15		55.00	
		220.00	
Less what you charged for 2014		55.00	Paid by me
		165.00	
So I owe you \$110 + \$36.66 + \$165 = \$311.66 which will take me up to Quarter ended 31/10/15. Paid on 29/6/15			
Please invoice (email to me) me for these charges so that this matter can be put to rest.			

### Public summary of significant losses to SP52948 owners for uncollected gas heating levies

- Mr. Moses Levitt was unfinancial to vote and be a member of the committee due to unpaid levies in 2012 and 2013 and incorrectly paid gas levies since 2001.

19. BCS Strata Management secretly changed the insurance contract clause without owners corporation approval or knowledge on 1 August 2012 in spite of high risks:



From: Brian Turpin [mailto:bturpin@chu.com.au]  
Sent: Wednesday, 1 August 2012 3:33 PM  
To: Mark Thirgood  
Subject: Strata Plan 52948 - Policy 9 legal defence costs

Our Ref NH201212589

Good afternoon Mark.

We will extend indemnity to the Insured under Policy 9. C) in this instance for Legal expenses Incurred in the legal advice sort in defence of the appeal.

We are not in a position to appoint legal representation on behalf the Insured in these circumstances.

Upon further approach under the claim, could we please have a copy of the Legal advice and costs summary.

Kind Regards,  
Brian Turpin  
Claims Consultant

CHU Underwriting Agencies Pty Ltd  
Level 5, 1 Northcliff Street  
Milsons Point NSW 2061

Of special importance is the fact that AJG Insurance Broker asked CHU Insurance to recommend lawyer who could represent SP52948, proving that SP52948 did not have signed Standard Costs Agreement with Solicitor Adrian Mueller dated 25 July 2012 as alleged in Statutory Declaration by Mr. Peter Bone which Solicitor Adrian Mueller prepared for CTTT on 19 April 2013 and later relied upon at District Court in February 2014:

**From:** Brian Turpin [mailto:bturpin@chu.com.au]  
**Sent:** Wednesday, 1 August 2012 4:22 PM  
**To:** Mark Thirgood  
**Subject:** RE: Strata Plan 52948 - Policy 9 legal defence costs

1

Hi Mark

We would not refer this matter through to our Company's Lawyers nor do we impose a rate scale.

We thought being a large risk that they would be in contact with a Strata Lawyer.

They can seek advice through the SCA (Strata Committee Australia).

Two others come to mind, Bannermans and the other, Le Page.  
Both deal in Strata Law.

Kind Regards,

**Brian Turpin** | Claims Consultant  
CHU Underwriting Agencies Pty Ltd | P 02 8923 5330 | W [www.chu.com.au](http://www.chu.com.au)

**From:** Mark Thirgood [mailto:mark.thirgood@ajg.com]  
**Sent:** Wednesday, 1 August 2012 3:55 PM  
**To:** Brian Turpin  
**Subject:** RE: Strata Plan 52948 - Policy 9 legal defence costs

Brian,

Do you have a panel lawyer which our client can appoint and use your rates?

20. Solicitor Adrian Mueller's invoice dated 10 August 2012 shows that there was no communication or exchange of emails or letter between BCS Strata Management and committee members and him in period from 2 July 2012 to 6 August 2012, in spite of Solicitor's proven record that he charged for each and every email, letter, and phone correspondence:

[JS Mueller invoice 100812](#)

## TIME BILLING SUMMARY

Date	Description	Amount	GST
02/07/12	Briefly perusing appeal application	\$88.00	\$8.80
02/07/12	Letter to you advising of appeal by [REDACTED]	\$88.00	\$8.80
06/08/12	Briefly perusing email, letters and other documents from chairman	\$88.00	\$8.80
08/08/12	Attendance at Directions Hearing	\$920.00	\$92.00
09/08/12	Perusing email from [REDACTED] reporting on outcome of directions hearing	\$44.00	\$4.40
09/08/12	Perusing notice from Tribunal advising of orders made at directions hearing	\$44.00	\$4.40
10/08/12	Letter to you reporting on directions hearing	\$88.00	\$8.80
<b>Total</b>		<b>\$1,360.00</b>	<b>\$136.00</b>

21. In his Statutory Declaration to CTTT on 19 April 2013 BCS Strata Management Peter Bone (as instructed by Solicitor Adrian Mueller) claimed that there was an email from Solicitor Adrian Mueller on 5 July 2012:

**From:** Adrian Mueller [mailto:AdrianMueller@lowes.com.au]  
**Sent:** Thursday, 5 July 2012 4:41 PM  
**To:** Paul Banooob  
**Subject:** SP52948

Hi Paul

Letter attached.

I would charge about \$1,100-\$1,500 to appear at the directions hearing.

Regards  
Adrian Mueller  
Solicitor

22. In his Statutory Declaration to CTTT on 19 April 2013 BCS Strata Management Peter Bone (as instructed by Solicitor Adrian Mueller) claimed that he was the lone recipient of email from Solicitor Adrian Mueller on 16 July 2012, in spite of fact that Mr. Peter Bone was not strata manager for SP52948 at the time:

**From:** Adrian Mueller  
**Sent:** Monday, 16 July 2012 6:52 PM  
**To:** 'peterb@bcms.com.au'  
**Subject:** Re: SP 52948  
**Attachments:** Cost Agreement.PDF

Dear Peter,

I **attach** my costs agreement in accordance with our discussions this afternoon.

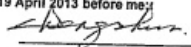
I look forward to receiving your instructions to represent the owners corporation in the CTTT appeal.

Regards  
Adrian Mueller  
Solicitor  
J.S. Mueller & Co  
Solicitors & Attorneys  
1st Floor 240 Princes Highway, Arncliffe NSW 2205  
DX 25315 Rockdale  
Ph: 02 9562 1266  
Fax: 02 9567 8551

23. In his Statutory Declaration to CTTT on 19 April 2013 BCS Strata Management Peter Bone (as instructed by Solicitor Adrian Mueller) claimed that he alone sent an email to Solicitor Adrian Mueller on 25 July 2012, in spite of fact that Mr. Peter Bone was not strata manager for SP52948 at the time:

**From:** Peter Bone [PeterB@bcms.com.au]  
**Sent:** Wednesday, 25 July 2012 2:13 PM  
**To:** Adrian Mueller  
**Subject:** SP 52948 - Cost Agreement  
**Attachments:** JS Mueller Cost Agreement 250712.pdf

This is the annexure marked "E"  
referred to in the statutory declaration  
of Peter Bone declared at Epping on  
19 April 2013 before me:



Solicitor

SHUN CHENG

Good afternoon Adrian

Re: Strata Plan 52948 – 1-19 Fontenoy Road Macquarie Park

Please find attached the signed cost agreement for this scheme.

Please do not hesitate to contact me should you require any additional information.

Kind regards.

Peter Bone  
Raine & Horne Strata-Sydney  
Level 1, Building D, 240 Beecroft Road Epping NSW 2121  
T: (02) 9868 2999 F: (02) 8216 0331  
[www.bcms.com.au](http://www.bcms.com.au)

24. Since 2012, nobody, including CTTT, ever saw or witnessed eight emails that were listed in Mr. Peter Bone's Statutory Declaration, as prepared by Solicitor Adrian Mueller:

- Unredacted Email from Solicitor Adrian Mueller to Branch Manager Paul Banoob dated 5th of July 2012 at 04:41 pm (listed in Statutory Declaration to CTTT by strata manager Peter Bone dated 19th of April 2013)
- Unredacted Email from Branch Manager Paul Banoob to Strata Manager Garry Webb dated 5th of July 2012 at 04:57 pm (listed in Statutory Declaration to CTTT by strata manager Peter Bone dated 19th of April 2013)
- Unredacted Email to EC members from BCS Strata Management Garry Webb dated 6th of July 2012 at 08:32 am (listed in Statutory Declaration to CTTT by strata manager Peter Bone dated 19th of April 2013)
- Unredacted Email to EC members and two staff members at BCS Strata Management from SP52948 Chairperson dated 6th of July 2012 at 12:48 pm (listed in Statutory Declaration to CTTT by strata manager Peter Bone dated 19th of April 2013)
- Unredacted Email to EC members and two staff members at BCS Strata Management from SP52948 Chairperson dated 9th of July 2012 at 10:18 pm (listed in Statutory Declaration to CTTT by strata manager Peter Bone dated 19th of April 2013)
- Unredacted Email from Solicitor Adrian Mueller to BCS Strata Management Peter Bone dated 16th of July 2012 at 6:52 pm (listed in Statutory Declaration to CTTT by strata manager Peter Bone dated 19th of April 2013)
- Unredacted Email from BCS Strata Management Peter Bone to Solicitor Adrian Mueller dated 25th of July 2012 at 2:13 pm (listed in Statutory Declaration to CTTT by strata manager Peter Bone dated 19th of April 2013)
- Unredacted Email from BCS Strata Management Debbie Downes to EC members dated 16th of April 2013 at 1:52 pm (listed in Statutory Declaration to CTTT by strata manager Peter Bone dated 19th of April 2013)

25. At CTTT hearing on 15 April 2013, Solicitor Adrian Mueller said words to the effect of (Lot 158 has audio recording of the event):

*What I wish to do is... continue with the Hearing today on proviso that I am able to tender some evidence on this issue. Evidence which I've only discovered... Material...*

*There's two documents:*

*First is a letter from me to the owners corporation dated the second of July 2012 in which I did an estimate of my costs to act in owners corporation's appeal.*

*Second document is email from the Strata manager to me on 6th of August 2012 returning the signed copy of my costs agreement... and the costs agreement... signed by the strata manager on behalf of the owners corporation...*

*And I apply... to... tender of these documents today on the basis that I've only been informed of the challenge...*

BCS Strata Management and committee members were fully aware of persistent requests by Lot 158 to provide evidence of alleged signed Statutory Declaration by Peter Bone

Solicitor Adrian Mueller, CTTT, and committee members deliberately prevented issue of summonses two times in 2013


26. The first claim for Solicitor Adrian Mueller's expenses was made only few weeks later (at the end of August 2012):

SP52948 Lot 3 Insurance Claim 1 on 31 August 2012 (\$367.64)

SP52948 Lot 3 Insurance Claim 2 on 7 December 2012 (\$12,714.65)

SP52948 Lot 3 Insurance Claim 3 on 2 May 2013 (\$1,320.00)

SP52948 Lot 3 Insurance Claim 4 on 4 June 2013 (\$10,517.02)

 **CHU**

New South Wales / ACT  
1 Northcreek Street  
Millers Point 2061  
PO Box 507, Millers Point 1565  
Phone: 1300 361 263  
Fax: 1300 361 269  
info\_nsw@chu.com.au

Victoria / Tasmania  
Level 30, 459 Collins Street  
Melbourne 3000  
Phone: 03 8695 4000  
Fax: 03 8620 0606  
Tasmania Ph: 1800 650 603  
info\_vic@chu.com.au

Queensland  
6 Floor, 445 Upper Edward Street  
Spring Hill 4000  
PO Box 255, Spring Hill 4004  
Phone: 07 3135 7900  
Fax: 07 3135 7901  
info\_qld@chu.com.au

Western Australia  
1050 Hay Street  
West Perth 6005  
PO Box 686, West Perth 6872  
Phone: 08 9466 8000  
Fax: 08 9466 8001  
info\_wa@chu.com.au

South Australia  
Ground Floor  
208 Greenhill Road  
Eastwood 5063  
Phone: 08 8394 0444  
Fax: 08 8394 0445  
info\_sa@chu.com.au

THE SPECIALISTS  
IN STRATA &  
COMMUNITY  
TITLE  
INSURANCE

CHU Underwriting Agencies Pty Ltd ABN 18 001 580 070 AFS Licence No: 243261 [www.chu.com.au](http://www.chu.com.au)

## Advice to payee

683467


GALLAGHER BROKING SERVICES  
PO BOX 6007  
NORTH SYDNEY, NSW 2060

03 SEP 2012

Any claims settlements payable to insureds have been made in accordance with the GST information provided at lodgement stage.

Description of Claim: CTTT DEFENCE/LOT 3 ; Pol No.NNR836665  
THE OWNERS -SP 52948 31/08/12

Claim Number	Incident Date	Excess	Total Amount of Cheque
NH201212589 - 1	12/06/2012	\$ 1,000.00	\$ 367.64

 **CHU**

New South Wales / ACT  
1 Northcreek Street  
Millers Point 2061  
PO Box 507, Millers Point 1565  
Phone: 1300 361 263  
Fax: 1300 361 269  
info\_nsw@chu.com.au

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Level 30, 459 Collins Street  
Melbourne 3000  
Phone: 03 8695 4000  
Fax: 03 8620 0606  
Tasmania Ph: 1800 650 603  
info\_vic@chu.com.au

Queensland  
6 Floor, 445 Upper Edward Street  
Spring Hill 4000  
PO Box 255, Spring Hill 4004  
Phone: 07 3135 7900  
Fax: 07 3135 7901  
info\_qld@chu.com.au

Western Australia  
1050 Hay Street  
West Perth 6005  
PO Box 686, West Perth 6872  
Phone: 08 9466 8000  
Fax: 08 9466 8001  
info\_wa@chu.com.au

South Australia  
Ground Floor  
208 Greenhill Road  
Eastwood 5063  
Phone: 08 8394 0444  
Fax: 08 8394 0445  
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## Advice to payee

701965


GALLAGHER BROKING SERVICES  
PO BOX 6007  
NORTH SYDNEY, NSW 2060

11 DEC 2012

Any claims settlements payable to insureds have been made in accordance with the GST information provided at lodgement stage.

Description of Claim: CIII DEFENCE LOT 3 ; Pol No.NNR836665  
THE OWNERS -SP 52948 07/12/12

Claim Number	Incident Date	Excess	Total Amount of Cheque
NH201212589 - 2	12/06/2012	\$ 0.00	\$ 12,714.65

 **CHU**

New South Wales / ACT  
1 Northcreek Street  
Millers Point 2061  
PO Box 507, Millers Point 1565  
Phone: 1300 361 263  
Fax: 1300 361 269  
info\_nsw@chu.com.au

Victoria / Tasmania  
Level 30, 459 Collins Street  
Melbourne 3000  
Phone: 03 8695 4000  
Fax: 03 8620 0606  
Tasmania Ph: 1800 650 603  
info\_vic@chu.com.au

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Phone: 07 3135 7900  
Fax: 07 3135 7901  
info\_qld@chu.com.au

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Fax: 08 9466 8001  
info\_wa@chu.com.au

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Ground Floor  
208 Greenhill Road  
Eastwood 5063  
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Fax: 08 8394 0445  
info\_sa@chu.com.au

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## Advice to payee

725330


GALLAGHER BROKING SERVICES  
PO BOX 6007  
NORTH SYDNEY, NSW 2060

29 APR 2013

Any claims settlements payable to insureds have been made in accordance with the GST information provided at lodgement stage.

Description of Claim: CTTT DEFENCE LOT 3 60252 ; Pol No.NNR836665  
THE OWNERS -SP 52948 26/04/13

Claim Number	Incident Date	Excess	Total Amount of Cheque
NH201212589 - 3	12/06/2012	\$ 0.00	\$ 1,320.00

 **CHU**

New South Wales / ACT  
1 Northcreek Street  
Millers Point 2061  
PO Box 507, Millers Point 1565  
Phone: 1300 361 263  
Fax: 1300 361 269  
info\_nsw@chu.com.au

Victoria / Tasmania  
Level 30, 459 Collins Street  
Melbourne 3000  
Phone: 03 8695 4000  
Fax: 03 8620 0606  
Tasmania Ph: 1800 650 603  
info\_vic@chu.com.au

Queensland  
6 Floor, 445 Upper Edward Street  
Spring Hill 4000  
PO Box 255, Spring Hill 4004  
Phone: 07 3135 7900  
Fax: 07 3135 7901  
info\_qld@chu.com.au

Western Australia  
1050 Hay Street  
West Perth 6005  
PO Box 686, West Perth 6872  
Phone: 08 9466 8000  
Fax: 08 9466 8001  
info\_wa@chu.com.au

South Australia  
Ground Floor  
208 Greenhill Road  
Eastwood 5063  
Phone: 08 8394 0444  
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info\_sa@chu.com.au

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## Advice to payee

732417

GALLAGHER BROKING SERVICES  
PO BOX 6007  
NORTH SYDNEY, NSW 2060

06 JUN 2013

Any claims settlements payable to insureds have been made in accordance with the GST information provided at lodgement stage.

Description of Claim: DEFENCE LOT 3 61223 ; Pol No.NNR836665  
THE OWNERS -SP 52948 04/06/13

Claim Number	Incident Date	Excess	Total Amount of Cheque
NH201212589 - 4	12/06/2012	\$ 0.00	\$ 10,517.02

27. On 13 August 2012, BCS Strata Management Paul Banoob sent agenda for committee meeting where minutes of meeting dated 9 July 2012 were not included for owners or even members of the committee:



## STRATA SCHEMES MANAGEMENT ACT 1996

To: The Executive Committee Members  
Strata Scheme No. 52948  
1-15 Fontenoy Road  
NORTH RYDE NSW 2113

NOTICE OF COMMITTEE MEETING FOR STRATA SCHEME No. 52948 TO BE HELD IN  
THE OFFICES OF RAINE & HORNE STRATA SYDNEY, LEVEL 1 BUILDING D 240  
BEECROFT ROAD EPPING ON 22<sup>ND</sup> AUGUST 2012 at 7.30PM.

## ITEMS

- ITEM 1** ✓ To record attendance, receive proxies and apologies.
- ITEM 2** That the minutes of the last Committee Meetings held on the 13th June and the 9<sup>th</sup> July 2012 be confirmed.
- ITEM 3** Matters arising from the last minutes:
- ✓ 1. Building D hot water tank – Refund cheque received. → A.G.N.
  - ✓ 2. Installation of footpath and lights to Lane Cove Road. → excessive.
  - ✓ 3. Tree Pruning
  - ✓ 4. Draft Survey.
  - ✓ 5. Water Saving quotes (Solar Sensor) - Completed
  - ✓ 6. Security
  - ✓ 7. Shock absorbing bollard – Installed
  - ✓ 8. Gym keys – resolved
  - ✓ 9. Appointment of a Solicitor to act on behalf of the Owners Corporation at the CTTT hearing.
- ITEM 4** To consider the financial position.
- ITEM 5** To receive a report from the caretaker.
- ITEM 6** To consider correspondence.
- ITEM 7** To consider and appoint a valuer to inspect the building for insurance replacement
- ITEM 8** To review the building consultants report
- ITEM 9** Reappointment of Raine & Horne Strata Sydney for a further year
- ITEM 10** Gas & water rebates
- ITEM 11** Appointment of a Sub- Committee to prepare a budget for the 2013 administrative and sinking fund *Sat - 14 Sept.*
- ITEM 12** To discuss the outcome of the CTTT hearing held on the 8<sup>th</sup> August 2012 *Not 16 Oct.*
- ITEM 13** General Business *17 Oct.*

DATE 13/8/12 SIGNATURE \_\_\_\_\_  
Members of the Strata Community Australia (NSW)

*Paul R. Bone* - *Ref. replaces Gary Webb.*

MINUTES OF EXECUTIVE COMMITTEE MEETING OF STRATA SCHEME NO. 52948, 1-15 FONTENOY ROAD NORTH RYDE HELD IN THE OFFICES OF RAINE & HORNE STRATA LEVEL 1 BLOCK D, 240 BEECROFT ROAD, EPPING ON 13<sup>th</sup> JUNE 2012 at 7.30PM.

**ITEM 1**  
**PRESENT** B Copland, M McDonald, S Pogorelsky, E Savits, J Hessink, M Levitt and S Quick

**APOLOGY** NIL  
**IN ATTENDANCE** P Banoob from Raine & Horne Strata-Sydney

**ITEM 2** To confirm minutes of the last meeting – Carried.

**ITEM 3:** Matters arising from the last minutes:

1. Building D hot water tank – Warranty claim.  
The Managing agent has sent a further email to the manufacturer requesting reimbursement within seven days prior to lodging an application with the office of fair trading.
2. Installation of footpath to a new gateway onto Lane Cove Road.  
The managing agent tabled a quotation received from IBA for the installation of new footpath in accordance with the council engineering specifications. The committee has agreed subject to the acceptance of a special resolution at the next general meeting to acquire and alter the common property. The additional works would include installation of adequate lighting, signage and a security camera at a total cost of approximately \$30,000.
3. Repairs to Townhouse roofs  
The managing agent informed the committee that these works have now been completed.
4. Application from the Owners of lots 136 & 137  
The managing agent informed the committee that the by-law has been registered and works have been completed and that a letter will be forwarded to the schemes insurer notifying them of works between units 136 and 137. All costs associated for preparing and dispatching notices and minutes have been charged to the lot owner which have been paid and accounted into the schemes trust account.

28. On 22 and 23 July 2020, Lot 158 sent repeated request to Waratah Strata Management and committee members to explain why agenda and minutes of committee meeting on 9 July 2012 did not exist on SP52948 web portal at Waratah Strata Management

From: [redacted]  
To: frank@ [redacted], Robert Crosbie [redacted] 22/7/20, 21:25  
Bcc: [redacted]  
Subject: REQUEST: Waratah Strata Management website missing notice and minutes of EC meeting dated 9Jul2012

Good evening,

Multiple document searches at BCS Strata Management and Waratah Strata Management since 2012 have not found notice and minutes of alleged EC meeting in unit of Mr. Stan Pogorelsky on 9 July 2012, which allegedly approved engagement of Solicitor Adrian Mueller.

Currently, on Waratah Strata website there are lot of unusual gaps in displayed minutes and notices of meetings. It does not make sense to have, for example, details of some meetings in 2000, 2001, 2005, and then jump to 2011, with lot of missing documents in between and afterwards.

Of special interest is page 8 in Documents folder, which lists notice for EC meeting 13 June 2012 and the next one is minutes of EC meeting 22 August 2012.

- The attached "SP52948-Notice-EC-meeting-13Aug2012-organised-by-BCS-Strata-Management-Paul-Banoob-and-not-containing-minutes-of-EC-meeting-9Jul2012.pdf" clearly shows that even members of the EC did not receive copy of the minutes of EC meeting dated 9 July 2012.
- The attached "SP52948-EC-Meeting-Invitation-13Aug2012.pdf" that was sent to owners also did not contain any details of the EC meeting dated 9 July 2012 (owners never received notice and minutes of such meeting, were never given a copy of the Standard Costs Agreement, and never voted for solicitor engagement at the general meeting in 2012).
- At EC meeting on 22 August 2012, Mr. Peter Bone was introduced as new strata manager, so he was not involved in managing the complex beforehand, and neither he organized that meeting.
- The evidence accidentally found in recent months shows, without any doubt, that Solicitor Adrian Mueller and BCS Strata Management Peter Bone deliberately provided misleading and what we allege false statements to CTTT, Fair Trading NSW, and District Court, were/are involved in perverting the course of justice, participated in illegal activities, gained financial advantage for themselves and selected parties, discriminated against many owners by providing different services, failed to collect rightful amounts of GST by not collecting correct levies (example: second gas connections), and more. In that process, they were supported by EC members, of which some were unfinancial and not legal to be on the committee for many years.

**You are kindly requested to obtain unredacted copies of notice and minutes of EC meeting dated 9 July 2012. That should be easy because current alleged EC members Mr. Stan Pogorelsky and Mr. Moses Levitt, and ex-member Ms. Joane Hessink should offer assistance. Contacting them immediately would be a prudent choice. We have their official statements to CTTT (along with all other statements from owners, strata manager, and EC members).**

Lot 158 emphasizes: we have always been open to resolutions and sensible outcomes without legal system. which were resolutely rejected by other parties so far.

# WARATAH

Strata Management

Please Note Report Downloads Will Not Work with Microsoft Edge, Please Continue to use Google Chrome or Internet Explorer.

CONTACT FAQ CHANGE PASSWORD LOGOUT



OWNERS CORPORATION

PORTFOLIO

REPORTS

MEETINGS

DOCUMENTS

MAINTENANCE

Strata Plan 52948

Enter Keyword



Document Type	Creditor	Description	Date
MINUTE BOOK			20/02/2013
MINUTE BOOK			04/01/2013
MINUTE BOOK			17/10/2012
MINUTE BOOK			17/10/2012
Audit Report			27/09/2012
MINUTE BOOK			22/08/2012
MINUTE BOOK			22/08/2012
MINUTE BOOK			22/02/2012
MINUTE BOOK			13/02/2012
MINUTE BOOK			14/12/2011

Results: 71 - 80 / 86

Page 8 / 9

Show rows 10

Waratah Strata Management never replied, and silently refused to offer assistance to Police, Fair Trading NSW, NCAT, and Supreme Court.

## 29. Minutes of committee meeting on 22 August 2012 allegedly approved minutes of committee meeting held on 9 July 2012 without providing any details to owners:

MINUTES OF EXECUTIVE COMMITTEE MEETING OF STRATA SCHEME NO. 52948, 1-15 FONTENOY ROAD NORTH RYDE HELD IN THE OFFICES OF RAINE & HORNE STRATA LEVEL 1 BLOCK D, 240 BEECROFT ROAD, EPPING ON 22<sup>ND</sup> AUGUST 2012 at 7.30PM.

Standard abbreviations used in these minutes are as follows: MA = Managing Agent, EC = Executive Committee, OC = Owners Corporation, CTTT = Consumer Tenancy and Trade Tribunal, AGM = Annual General Meeting.

### ITEM 1

#### PRESENT

B Copland, J Ward, S Pogorelsky, J Wang, J Hessink, M Levitt & S Quick

#### APOLOGIES

M McDonald, E Saulits

#### IN ATTENDANCE

P Banoo & P Bone from Raine & Horne Strata-Sydney  
Paul Banoo introduced Peter Bone as the manager from Raine & Horne Strata who will be responsible for day to day management due to Gary Webb being unable to continue for medical reasons. Peter may be contacted on 02 9868 2999.

### ITEM 2

To confirm the minutes of the last two meetings.  
The EC meeting held 13 June 2012 – Carried.  
The EC emergency meeting held 9 July 2012 – Carried.

Mr. Peter Bone was introduced as new strata manager, which proves that he had no rights or authority to represent or act on behalf of SP52948 at any date before 22 August 2012.

In his Statutory Declaration to CTTT on 19 April 2013 BCS Strata Management Peter Bone (as instructed by Solicitor Adrian Mueller) claimed that he was the lone recipient of email from Solicitor Adrian Mueller on 16 July 2012:

**From:** Adrian Mueller  
**Sent:** Monday, 16 July 2012 6:52 PM  
**To:** 'peterb@bcms.com.au'  
**Subject:** Re: SP 52948  
**Attachments:** Cost Agreement.PDF

Dear Peter,

I attach my costs agreement in accordance with our discussions this afternoon.

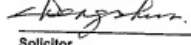
I look forward to receiving your instructions to represent the owners corporation in the CTTT appeal.

Regards  
Adrian Mueller  
Solicitor  
J.S. Mueller & Co  
Solicitors & Attorneys  
1st Floor 240 Princes Highway, Arncliffe NSW 2205  
DX 25315 Rockdale  
Ph: 02 9562 1266  
Fax: 02 9567 8551

In his Statutory Declaration to CTTT on 19 April 2013 BCS Strata Management Peter Bone (as instructed by Solicitor Adrian Mueller) claimed that he alone sent an email to Solicitor Adrian Mueller on 25 July 2012:

**From:** Peter Bone [PeterB@bcms.com.au]  
**Sent:** Wednesday, 25 July 2012 2:13 PM  
**To:** Adrian Mueller  
**Subject:** SP 52948 - Cost Agreement  
**Attachments:** JS Mueller Cost Agreement 250712.pdf

This is the annexure marked "E"  
referred to in the statutory declaration  
of Peter Bone declared at Epping on  
19 April 2013 before me:



Solicitor

SHUN CHENG

Good afternoon Adrian

Re: Strata Plan 52948 – 1-19 Fontenoy Road Macquarie Park

Please find attached the signed cost agreement for this scheme.

Please do not hesitate to contact me should you require any additional information.

Kind regards.

Peter Bone  
Raine & Horne Strata-Sydney  
Level 1, Building D, 240 Beecroft Road Epping NSW 2121  
T: (02) 9868 2999 F: (02) 8216 0331  
[www.bcms.com.au](http://www.bcms.com.au)

30. At CTTT Directions Hearing on 8 August 2012 Tribunal issued orders for Solicitor Adrian Mueller to provide respondents' files by 12 September 2012:

158 / 1-15 Fontenoy Road  
MACQUARIE PARK NSW 2113

File No: SCS 12/32675  
(Quote in all enquiries)

Application to the Tribunal concerning 1-15 Fontenoy Road MACQUARIE PARK  
NSW 2113 Australia – SP52948

Applicant [redacted]  
Respondent Owners Corporation SP – 52948

On 08 August 2012 the following orders were made:

1. On 08 August 2012 the hearing was adjourned to a date to be fixed by the Registrar.
2. The applicant shall provide to the respondent and the Tribunal, a copy of all documents on which the applicant intends to rely at the hearing by 15 August 2012.
3. The applicant shall provide to the respondent and the Tribunal, a document no longer than 3 pages in length setting out in succinct and summary terms the reasons for the appeal and the orders sought, by 15 August 2012.
4. The respondent shall provide to the applicant and the Tribunal, a copy of all documents on which the respondent intends to rely at the hearing by 12 September 2012.
5. Both parties are to advise each other and the Tribunal of their UNavailable dates for a period of 3 months from 17 September 2012.

A separate written notice of the new hearing date will be sent to you in the near future.

G Meadows  
Tribunal Member

31. On 5 September 2012, BCS Strata Management Peter Bone prepared a draft letter to refute Lot 158's allegations and sent it to six committee members (leaving three committee members uninformed) and his manager Mr. Paul Banoob:



**Subject:** RE: SP 52948 - Letter to All Owners

**From:** Maureen McDonald

**Date:** 5/9/12, 3:40 pm

**To:** 'Peter Bone' <PeterB@bcms.com.au>, <bcopland@jeffrey@jessink@jward@pogo@>

**CC:** 'Paul Banoob' <@picaust.com.au>

Peter, I approve your explanatory letter to all OWNERS. I presume letter was distributed to all mail boxes.

Thank you.

Maureen McDonald

From: Peter Bone [mailto:PeterB@bcms.com.au]

Sent: Wednesday, 5 September 2012 1:00 PM

To: bcopland@jeffrey@jessink@jward@pogo@>

Cc: Paul Banoob

Subject: SP 52948 - Letter to All Owners

Importance: High

Good afternoon Committee

Please find attached a draft letter to all owners, from the Executive Committee, in relation to the recent correspondence sent to all owners by

32. On 7 September 2012, BCS Strata Management Peter Bone sent letter to all owners, except Lot 158, refuting all Lot 158's allegations without evidence:

**Raine & Horne Strata - Sydney**  
Block D, Level 1, 240 Beecroft Road,  
Epping NSW 2121  
Locked Bag 22, Haymarket NSW 1238  
**Telephone** 02 9868 2999  
**Fax** 02 8216 0331  
**Email** strata@bcms.com.au  
**Web** www.bcms.com.au

**Raine&Horne**  
**Strata Sydney**

**Raine & Horne Strata - Sydney**  
Block D, Level 1, 240 Beecroft Road,  
Epping NSW 2121  
Locked Bag 22, Haymarket NSW 1238

**Raine&Horne**  
**Strata Sydney**

**Telephone** 02 9868 2999  
**Fax** 02 8216 0331  
**Email** strata@bcms.com.au  
**Web** www.bcms.com.au

7 September 2012

The Owner  
Macquarie Gardens  
1-15 Fontenoy Road  
MACQUARIE PARK NSW 2113

Dear Owner,

**RE: RESPONSE TO RECENT LETTER FROM Lot 158**

We are writing to you about a recent letter which you may have received in your letterbox from an owner in Macquarie Gardens, Lot 158.

In his letter Lot 158 makes a number of allegations against the executive committee and strata manager of Macquarie Gardens which are false.

The purpose of this letter is to address the false allegations and provide you with the executive committee's response to them.

**CTTT Hearing**

In his letter Lot 158 asserts that "I was successful in enforcing the CTTT hearing" and that "at the directions hearing held on 8<sup>th</sup> August 2012... I defeated the solicitor [of the owners corporation] when I presented new evidence." These statements are false.

On about 30 January 2012 Lot 158 applied to a strata schemes adjudicator for various orders against the owners corporation of Macquarie Gardens. On 23 May 2012 Lot 158's application was dismissed by Strata Schemes Adjudicator Eftimou.

Lot 158 was dissatisfied with the Adjudicator's decision and on 15 June 2012 he lodged an appeal against the decision with the Consumer, Trader and Tenancy Tribunal ("CTTT"). On 8 August 2012 Lot 158's appeal came on for a directions hearing in the CTTT. On that day the CTTT was not prepared to dismiss Lot 158's application and orders were made to require Lot 158 and the owners corporation to lodge evidence and submissions in support of their respective cases.

Lot 158's appeal is still pending before the CTTT. The appeal has not been successful. Indeed, the executive committee is confident that the appeal will be dismissed and the decision of the Adjudicator upheld.

**Optus Case in 2010**

In his letter Lot 158 makes reference to "the attempted fraud with Optus case in 2010 [sic]". There has been no fraud committed in relation to Optus. The proposal to enter into a lease of common property to Optus was put to a General Meeting and was not approved. No improper dealings ever occurred in this respect. Indeed Lot 158 previously raised his concerns about the arrangements with Optus with a Strata Schemes Adjudicator and those concerns were dismissed.

**Rebates**

In his letter Lot 158 asserts that there has been "long term fraud" and that "money has been taken" from our common funds. These assertions relate to claims by Lot 158 that certain owners have unlawfully received rebates for gas and water charges.

Many of you would be aware that owners in tower units receive water and gas paid for by the Owners Corporation and the rebate scheme put in place in 1999 simply treats townhouse owners in the same manner. Townhouse owners first have to pay the individual meter bills and are then rebated the consumption amounts only. The timing of payments can vary according to the date the claims for rebates are made. Not all claims are allowable as there is a time limit to ensure the Owners Corporation can budget for these costs properly. Many townhouse owners have received rebates of this nature. All such rebates have been approved by the Owners Corporation. Indeed Lot 158 previously made claims that there had been fraudulent rebates paid to certain owners. These claims were not accepted by the Strata Schemes Adjudicator.

**Personal Benefits**

Lot 158 has asserted that past and present members of the executive committee have "abused their privileges and obtained personal financial benefits". He has also claimed that "even Raine & Horne Epping office claimed a small rebate for a gas expense!" These allegations are false. Neither the executive committee members nor the strata manager of Macquarie Gardens have obtained, by unlawful means, any personal financial benefits.

**Conclusion**

Many of the assertions contained in Lot 158's letter have been previously raised with and dismissed by the Strata Schemes Adjudicator. The allegations which we have addressed in this letter are simply untrue. And some of them are defamatory.

The executive committee will continue to manage the affairs of Macquarie Gardens, in concert with the strata managing agent, in the best interests of the owners as a whole. This will include vigorously defending Lot 158's appeal which is currently before the CTTT.

In the event that you want to discuss any of the matters raised by Lot 158 or the content of this letter, please do not hesitate to contact your executive committee or strata manager.

Yours faithfully

Executive Committee - Macquarie Gardens

33. On 10 September 2012, BCS Strata Management Paul Banoob email to SP52948 Executive Committee confirming his attendance with Solicitor Adrian Mueller at CTTT Hearing scheduled for 17 October 2012:

Unfinancial owner and illegal committee member Mr. Stan Pogorelsky rushed to approve it:

From Stan Pogorelsky [mailto:stan.pogorelsky@picaust.com.au] ☆  
 Subject: RE: 10/9/12, 6:22 pm

To: 'Paul Banoob' <[mailto:paul.banoob@picaust.com.au] ☆, 'Mo & Zelda Levitt' <[mailto:mo.zelda.levitt@picaust.com.au] ☆,  
 Peter Bone' <[mailto:PeterB@bcms.com.au] ☆, bcopland@bcms.com.au ☆, jeffrey@bcms.com.au ☆,  
 jhessink@bcms.com.au ☆, jward@bcms.com.au ☆, mcDonald151@bcms.com.au ☆

Thanks for this Paul

Regards,

Stan

From: Paul Banoob [mailto:paul.banoob@picaust.com.au]  
 Sent: Monday, 10 September 2012 3:51 PM  
 To: 'Mo & Zelda Levitt'; Peter Bone; bcopland@bcms.com.au; jeffrey@bcms.com.au; jhessink@bcms.com.au;  
 jward@bcms.com.au; mcDonald151@bcms.com.au; pogorelsky@picaust.com.au  
 Subject: [REDACTED]

Dear Exco

I wish to confirm that most of you would of received a letter from the CTTT concerning a hearing date set for Wednesday 17 October please note that this is just for your information only the lawyer will be representing your scheme and I will also be in attendance.

Regards

Paul Banoob

Raine & Horne Strata-Sydney

34. On 19 September 2012, Chairperson of SP52948 committee Mr. Bruce Copland sent complaint to BCS Strata Management Mr. Peter Bone about accounting errors and concerns about insurance renewal:

Our Ref: AM:DR:22012  
 19 September 2012

The Registrar  
 Consumer, Trader and Tenancy Tribunal  
 GPO Box 4005  
 SYDNEY NSW 2001

**Also by facsimile: 1300 135 247**

Dear Registrar

**RE: [REDACTED] -v- OWNERS CORPORATION SP 52948**  
**FILE NO.: SCS 12/32675**

---

We act for the respondent, Owners Corporation of SP 52948.

On 8 August 2012 the Tribunal ordered the respondent to lodge a copy of all documents on which it relies by 12 September 2012. The respondent has not met that deadline and we are writing to ask that it be extended by 2.5 weeks to 28 September 2012.

There are two reasons why we ask for the deadline to be extended.

First, the applicant has submitted a voluminous amount of material on which he intends to rely which comprises over 1,000 pages of documents, some of which are double sided and typed in a small, closely spaced font. It has taken the respondent longer than anticipated to read and comprehend that material due to its sheer size.

Second, on 5 September 2012 the respondent applied to the Tribunal to have the matter relisted to hear an application to summarily dismiss the appeal. The respondent did not receive a response to that request from the Tribunal until 14 September 2012. Up until that time the respondent refrained from preparing its evidence because to do so would have defeated the purpose of its summary dismissal application. Further on 13 September 2012 we wrote to the Deputy Chairperson (Determinations) to press the respondent's claim for a summary dismissal hearing and we are still awaiting a reply.

We do not believe the applicant will be significantly prejudiced if the extension of time is granted. If the matter needs to be relisted to enable us to apply for the extension of time on behalf of the respondent, then we ask that the matter be relisted as soon as possible for that purpose.

Yours faithfully  
 J.S. MUELLER & CO

35. On 20 September 2012, BCS Strata Management Mr. Peter Bone, Mr. Paul Banoob, and Mr. Ron Sinclair made forced admission to two members of the committee (ignoring the other seven members) why insurance premiums increased dramatically and reason why owners corporation used services of Gallagher Insurance Broker:



From: Ron Sinclair [mailto:[RonS@bcms.com.au](mailto:RonS@bcms.com.au)]  
Sent: Thursday, 20 September 2012 12:25 PM  
To: Bruce Copland  
Cc: Peter Bone  
Subject: FW: SP52948 insurance due 21/09

SP52948 insurance due 21/09

Importance: High

Hello Bruce

As per email below from Gallaghers, Strata Unit Underwriters declined to quote. This information only just received after a number of enquiries.

Gallaghers had not provided the CHU quotes with the 5% increase you requested. I chased them up again this morning and I am now advised that CHU computers are down and may not be able to assist until later today. CHU have advised that because of all the burst pipes and water damage claims they will be increasing the excess for those type of claims to \$5000. If you agree to place a \$10000 excess on the pipes and water damages claims there would be a significant decrease of the premium of around \$9000.

As soon as I receive the CHU quotes I will forward to you.

Regards

A month earlier, on 10 August 2012, BCS Strata Management Mr. Ron Sinclair asked Arthur J. Gallagher insurance broker for SP52948 insurance renewal quotes:

From: Ron Sinclair [mailto:[RonS@bcms.com.au](mailto:RonS@bcms.com.au)]  
Sent: Friday, 10 August 2012 10:22 AM  
To: Cathy Page  
Subject: SP52948

Hi Cathy

Could you please ask the insurer to provide a premium cost for renewal based on the current sum insured. We need an idea of the premium for our budget asap. We will be obtaining a new valuation but need the budget figure now. The Chairman of the Strata Scheme Bruce Copeland who I understand is a client of Gallaghers has requested the budget figure. We will be needing alternative quotes prior to renewal.

Regards

Ron Sinclair

Raine & Horne Strata-Sydney

... where Arthur J. Gallagher insurance broker responded on 29 August 2012:

From: Cathy Page [mailto:[Cathy@ajgallagher.com.au](mailto:Cathy@ajgallagher.com.au)]  
Sent: Wednesday, 29 August 2012 4:01 PM  
To: Ron Sinclair  
Subject: RE: SP52948  
Importance: High

Strata Plan 52948  
Policy Number: NNR836665  
~~~~~

Dear Ron,

Please find attached renewal terms with current sums insured, issued by Corporate Home Unit Underwriting Agencies Pty Ltd, for the forthcoming period 21st September 2012 to 21st September 2013. The two options have a water damage deductible applicable:- Option 1 \$10,000, and Option 2 - \$5,000.

CHU have advised they do have reservations over the constant water ingress issues which have been prevalent since 2007, and have not seen a great improvement.

Await your instructions in due course.

... with update on 20 September 2012 (day of compulsory insurance renewal) that SUU declined to quote due to pending legal defence claim (for Solicitor Adrian Mueller):

From: Ron Sinclair [mailto:ron@sinclair.com.au]  
Sent: Thursday, 20 September 2012 12:25 PM  
To: Bruce Copland  
Cc: Peter Bone  
Subject: FW: SP52948 insurance due 21/09

SP52948 insurance due 21/09

Importance: High

Hello Bruce

As per email below from Gallaghers, Strata Unit Underwriters declined to quote. This information only just received after a number of enquiries.

Gallaghers had not provided the CHU quotes with the 5% increase you requested. I chased them up again this morning and I am now advised that CHU computers are down and may not be able to assist until later today. CHU have advised that because of all the burst pipes and water damage claims they will be increasing the excess for those type of claims to \$5000. If you agree to place a \$10000 excess on the pipes and water damages claims there would be a significant decrease of the premium of around \$9000.

As soon as I receive the CHU quotes I will forward to you.

Regards

Transcript of those emails:

*From: Ron Sinclair*

*Sent: Friday, 10 August 2012 10:22 AM*

*To: Cathy Page*

*Subject: SP52948*

*Could you please ask the insurer to provide a premium cost for renewal based on the current sum insured. We need an idea of the premium for our budget asap. We will be obtaining a new valuation but need the budget figure now. The Chairman of the Strata Scheme Bruce Copeland who I understand is a client of Gallaghers has requested the budget figure. We will be needing alternative quotes prior to renewal.*

*From: Cathy Page*

*Sent: Wednesday, 29 August 2012 4:01 PM*

*To: Ron Sinclair*

*Subject: RE: SP52948*

*Importance: High*

*Strata Plan 52948*

*Policy Number: NNR836665*

~~~~~

*Please find attached renewal terms with current sums insured, issued by Corporate Home Unit Underwriting Agencies Pty Ltd, for the forthcoming period 21st September 2012 to 21st September 2013. The two options have a water damage deductible applicable:- Option 1 \$10,000, and Option 2 - \$5,000.*

*CHU have advised they do have reservations over the constant water ingress issues which have been prevalent since 2007, and have not seen a great improvement.*

*From: Cathy Page*

*Sent: Thursday, 20 September 2012 11:10 AM*

*To: Ron Sinclair*

*Subject: RE: SP52948 due 21/09*

Importance: High

Further to our telephone conversation of today, Strata Unit Underwriting have declined to quote on renewal for Strata Plan 52948, due to pending legal defence claim.

On the same date, the response from committee member was:

*Can we please get a claims report for the last few years. The Executive committee is not seeing all these claims and there is clearly a misunderstanding as to what claims are being made when we may be better off paying these directly. There are virtually no insurance claims of any size reflected in our accounts. If payments are being made directly to contractors there is no visibility of the claims volume and we cannot assess whether these premiums are reasonable or understand the nature claims.*

*This dramatic jump in premium will cause us to reassess our budgets dramatically - Our strata manager Peter Bone provided me with a budget two days ago with a figure of \$60,000 " does no one speak to each other? That's over \$100 per unit increase in levies that we would have been in error.*

*I am extremely disturbed that we are only getting follow up 24 hours before our insurance lapses. Had I been appraised of these difficulties earlier I might have been able to assist.*

*The committee cannot be expected to assess quotes on a reasonable basis with a shotgun held to their heads at the last minute.*

*If no better quote is received we need to proceed with the CHU quote with the higher excess - please supply me with a copy of the cover note as soon as insurance is placed.*

*Bruce Copland*

*Chairman SP 52948*

36. Secret SP52948 committee confirmation my Chairperson Mr. Bruce Copland that Solicitor Adrian Mueller was involved in AGM 2012 preparation on 25 September 2012:

From: Bruce Copland  
Sent: Tuesday, 25 September 2012 7:11 PM  
To: Paul Banoob  
Cc: Peter Bone ([PeterB@bcms.com.au](mailto:PeterB@bcms.com.au))  
Subject: Revised AGM agenda and notice

Paul/Peter

Subject to any

1. final comments on the annual report from Adrian Mueller
2. The attachment of the annual AUDITED accounts
3. resolution on which motions if any we require to include from any other owner
4. and your review of the changes, new by-laws etc

this is now in the order in which I would like to run the meeting, dealing with pure administration matters first, the special by laws and finally election of a new committee.

You will note particularly that I have allowed for reciprocal email rights for notices if an owner provides an address " please confirm the email address in that by law is correct.

I have removed the motion to do with WH&S. The committee already recognise this, have taken steps to obtain asbestos clearance and will take any further steps as required.

We have removed the resolution on collections " this was dealt with last year.

Transcript of part of the email:

*Subject to any*

- 1. final comments on the annual report from Adrian Mueller*

2. The attachment of the annual AUDITED accounts

3. resolution on which motions if any we require to include from any other owner

4. and your review of the changes, new by-laws etc this is now in the order in which I would like to run the meeting, dealing with pure administration matters first, the special by laws and finally election of a new committee.

37. Upon Lot 158's complaint about not receiving documents from the Respondent (BCS Strata Management and SP52948 committee) on 10 September 2012, the Tribunal issued notice of non-compliance with procedural directions on 17 September 2012 - Solicitor Adrian Mueller did not comply with the Tribunal's notice and BCS Strata Management did not inform any owner about this CTTT case:

**CONSUMER, TRADER & TENANCY TRIBUNAL**

158 / 1-15 Fontenoy Road  
MACQUARIE PARK NSW 2113

File No: SCS 12/32675  
(Quote in all enquiries)

**Application to the Tribunal concerning 1-15 Fontenoy Road MACQUARIE PARK NSW 2113 Australia – SP52948**


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Correspondence has been received from the Applicant on 10/9/12 concerning the matter and the non-compliance with procedural directions made on 8/8/12. It is in the interest of all parties to comply with procedural directions. A party to proceedings must endeavour to comply with procedural directions despite the non-compliance of the other party.

Failure to comply may result in an adjournment of the matter and/or any submissions received after the compliance date not being admitted into evidence.

The correspondence has been placed on file and a copy sent to all parties. Any outstanding issues should be raised at the next hearing.



**E Dziwniel**  
Team Leader  
17/09/12

38. On 19 September 2012 Solicitor Adrian Mueller requested BCS Strata Management to provide documents to allow him to prepare evidence on behalf of owners for CTTT Hearing (listed in Solicitor Adrian Mueller invoice dated 15 November 2012):



Our Ref: AM:DR:22012

19 September 2012

The Registrar  
Consumer, Trader and Tenancy Tribunal  
GPO Box 4005  
SYDNEY NSW 2001

Also by facsimile: 1300 135 247

Dear Registrar

RE: [REDACTED] -v- OWNERS CORPORATION SP 52948  
FILE NO.: SCS 12/32675

We act for the respondent, Owners Corporation of SP 52948.

On 8 August 2012 the Tribunal ordered the respondent to lodge a copy of all documents on which it relies by 12 September 2012. The respondent has not met that deadline and we are writing to ask that it be extended by 2.5 weeks to 28 September 2012.

There are two reasons why we ask for the deadline to be extended.

First, the applicant has submitted a voluminous amount of material on which he intends to rely which comprises over 1,000 pages of documents, some of which are double sided and typed in a small, closely spaced font. It has taken the respondent longer than anticipated to read and comprehend that material due to its sheer size.

Second, on 5 September 2012 the respondent applied to the Tribunal to have the matter relisted to hear an application to summarily dismiss the appeal. The respondent did not receive a response to that request from the Tribunal until 14 September 2012. Up until that time the respondent refrained from preparing its evidence because to do so would have defeated the purpose of its summary dismissal application. Further on 13 September 2012 we wrote to the Deputy Chairperson (Determinations) to press the respondent's claim for a summary dismissal hearing and we are still awaiting a reply.

We do not believe the applicant will be significantly prejudiced if the extension of time is granted. If the matter needs to be relisted to enable us to apply for the extension of time on behalf of the respondent, then we ask that the matter be relisted as soon as possible for that purpose.

Yours faithfully  
J.S. MUELLER & CO

39. SP52948 Chairperson of the committee Mr. Bruce Copland instructed BCS Strata Management Peter Bone to delay new levies and confirmed he was aware of insurance covering legal costs related to Lot 158 on 19 September 2012:

From Bruce Copland <[REDACTED]> ☆ 🔍 Reply 📧 Reply All 📧 Forward 📧 More

Subject RE: Budgets and Accounts 19/9/12, 10:24 am

To Peter Bone <PeterB@bcms.com.au> ☆

Peter,

I suggest you hold off running new start levy schedules till we land on the levies that will be recommended to the AGM. Further review after I sent the email to you last night suggests that the more likely numbers will need to be \$700,000 for Admin fund and \$182,000 for Sinking Fund and of course these can be further changed once final accounts are received and reviewed.

I will provide you with explanatory notes for the foot path addition and the gatehouse addition after the committee has reviewed these.

Please reassure me that the insurance issue is in hand and being actively managed due to expiry date tomorrow. I would be reluctant to change insurers due to their positive response to our legal costs related to [REDACTED] but trust the remuneration quoted is tested as competitive.

40. Solicitor Adrian Mueller asked BCS Strata Management Mr. Peter Bone and Mr. Paul Banoob who would sign Statutory Declaration for his legal defence at CTTT on 19 September 2012. Chairperson of the committee Mr. Bruce Copland witnessed this email. Solicitor's Standard Costs Agreement and Statutory Declaration were not provided to owners at Annual General Meeting 2012, nor it existed during document searches in 2012 and 2013, and were not provided to CTTT until April 2013:

From: Adrian Mueller [AdrianMueller@lowes.com.au]  
Sent: Wednesday, 19 September 2012 3:09 PM  
To: Peter Bone; Paul Banooob  
Cc: bcopland  
Subject: Re: SP52948 and I - CTTT Appeal

Dear Paul

The CTTT has quite remarkably refused to relist [redacted] appeal to allow the owners corporation to apply to have it summarily dismissed.

This means the owners corporation will need to prepare the evidence on which it will rely to contest the appeal.

The owners corporation was meant to lodge its evidence by 12 September 2012. As this deadline has now passed I have written to the Tribunal to ask that the deadline be extended due to: the sheer volume of [redacted] evidence and the fact that the owners corporation was waiting for the Tribunal to deal with its summary dismissal application.

Irrespective of whether or not the deadline for the owners corporation to lodge its evidence is extended, we should prepare that evidence as soon as possible.

In order for me to prepare the owners corporation's evidence I need you to provide me with complete copies of the notices for and minutes of the following general meetings of the owners corporation:

- ✓ the meeting at which Special By-Law 4 (exclusive rights to common property by owners of Lot 3) was passed;
- ✓ the meeting at which Special By-Law 8 (acquisition of additional common property) was passed;
- ✓ the meeting at which Special By-Law 10 (exclusive use of common property) was passed;
- ✓ the EGM held on 14 May 2012; *Agenda & Minutes ✓*
- ✓ the 2010 and 2011 AGMs; *Agenda & Minutes ✓*
- ✓ the meeting at which the utility rebates payable to certain owners was authorised. *Water ✓ gas ✓ ECU 1/yr ✓*

I also need you to provide me with complete copies of Special By-Laws 4, 8 and 10 and any positive covenant recorded on the certificate of title for the common property.

I also need you to let me know which strata manager will sign the statutory declaration to give evidence on behalf of the owners corporation in the appeal (i.e. you or Peter).

I look forward to hearing from you shortly.

Yours faithfully  
Adrian Mueller  
Solicitor

J.S. Mueller & Co  
Solicitors & Attorneys

41. BCS Strata Management Mr. Peter Bone email to SP52948 Chairperson of the committee Mr. Bruce Copland with Solicitor Adrian Mueller Standard Cost Agreement for preparation of By Law for gas outlets in units on 19 September 2012 (this Standard Costs Agreement was not provided to owners at Annual General Meeting 2012, CTTT, District Court, or Supreme Court at any time since then):

From: Peter Bone [mailto:PeterB@bcms.com.au]  
Sent: Wednesday, 19 September 2012 3:13 PM  
To: Bruce Copland  
Cc: Paul Banooob  
Subject: FW: SP52948 - By-Law Cost Agreement

Good afternoon Bruce

Please find attached a Cost Agreement from J S Mueller & Co in relation to the drafting of a By-Law relating to the inspection of gas outlets in individual units.

Kind regards

42. SP52948 Chairperson of the committee Mr. Bruce Copland secretly instructed BCS Strata Management Peter Bone to ignore Motions submitted by Lot 158 for Annual General Meeting (one of the Motions was to prevent unnecessary legal costs and use free mediation as appropriate method to resolve issues) and find loopholes to implement it on 24 September 2012:

Paul,

1. The committee met at the weekend and have prepared a budget, annual report and recommended levies. The annual report was signed off also by email by those members not at the meeting (Mo and Jeffrey)
2. The accounts are fine now as we have reanalysed the expenses to align with our old format and budget. The committee thank you for providing the representation letter. I noticed that between us we stuffed the paragraph numbers between point 5 and 6 " Can you reissue with point 6 being the sentence that starts in the latter part of point 5 " Other than those aforesaid etc
3. Please arrange for levy schedules to be prepared based on \$770,000 admin fund and \$182,000 Sinking fund for attachment to the AGM package.
4. I'll do formal minutes later but for now I would like you to read the attached annual report and I would suggest that the report be provided to Adrian Mueller to ensure that none of the comments that we have made on the CTTT matter are unacceptable. We have expanded this so that it meets best practice, answers any conceivable issue brought up by and believe that we should provide a colour copy to all owners. We can provide 220 copies at our cost if you are unable to do this. You only really need to print appendix A, B and C in colour to get the message over. Let me know what you think.
5. You will note that the committee has agreed that the MA contract should not be put to a vote at the AGM having completed a tender process.
6. We should arrange to get the accounts audited this week if at all possible.
7. We will prepare and send to you the revised notice of meeting with our additional resolutions concerning water and gas rebates and the gas heating issue. There are substantial changes so do not proceed with the existing draft.
8. We have reviewed the wording of the debt collection issue and find no difference other than the days and amount to that approved at last year so therefore do not see any need to repeat this " the meeting has more than enough on its plate.
9. The committee directed me to remind you that had submitted a motion (or two) to be included in the meeting. First our preference is to find a legal reason why he can be ignored until the CTTT matter is resolved. The second choice is that we look at his motions (?) and decide whether the matters contained therein are dealt with in the motions that we are drafting to do with gas and water and continued approval to expend funds without going to a GM etc. For new matters like the sub-committee nonsense I think we just need a legal opinion to say that sub-committees have no standing legally, would not be covered by our Officers liability insurance and therefore cannot be accommodated.

Feel free to call if any questions up till 12 " then I am in meeting till this evening and will work on the AGM notice then.

Bruce

43. Solicitor's request dated 19 September 2012 was granted in Tribunal's notice issued on 26 September 2012 - Solicitor Adrian Mueller did not comply with his own request for extension of time and the Tribunal's notice. BCS Strata Management did not inform owners about it but continued to incur additional Solicitor's costs without approval:

**CONSUMER, TRADER & TENANCY TRIBUNAL**

File No: SCS 12/32675  
(Quote in all enquiries)

158 / 1-15 Fontenoy Road  
MACQUARIE PARK NSW 2113


**Application to the Tribunal concerning 1-15 Fontenoy Road MACQUARIE PARK NSW 2113 Australia – SP52948**

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The request by Owners Corporation SP – 52948 to extend time to comply with procedural directions made on 08/08/12 has been considered.

On 24/09/12 the following procedural directions were made:

1. Timetable made by the Tribunal on 08/08/12 is amended.
2. Time for compliance with direction 4 is extended to 28/09/12.

  
**N Mahmoud**  
 for the Registrar  
 26/09/12

44. Lot 158 lodged second complaint with CTTT about not receiving documents from the Respondent on 29 September 2012:



From SP52948 owner Sat Sep 29 09:26:50 2012  
Subject: SECOND NON-COMPLIANCE WITH PROCEDURAL HEARING: 24 October 2012 for SCS 12/32675  
From: SP52948 Lot 158  
To: ctttenquire@cttt.nsw.gov.au  
Date: Sat, 29 Sep 2012 09:26:50 +1000

To Whom It May Concern,

The CTTT released the following procedural order to amend the timetable made by the Tribunal on 8th of August 2012 and grant the extension of time for compliance with Direction 4 to 28th September 2012.

Today is 29th of September 2012 and I hereby solemnly declare that:

a) No documents, evidence, or any response has been received from the Respondents by the due date.

b) There has been no attempt to notify me about any delay in delivering the documents.

Instead, the new Managing Agent from Raine & Horne Epping approached me about the Motions that I wished to submit for AGM 2012, but no reference to the CTTT Hearing was made in any form or shape.

c) The Respondents failed to comply with the CTTT's procedural orders for the second time.

d) As per CTTT's own ruling, no submission by the Respondents received after the compliance date should be admitted into evidence.

Best wishes for the long weekend,

45. On 27 September 2012, BCS Strata Management Peter Bone email to SP52948 Executive Committee confirming him providing all documents to Solicitor Adrian Mueller, intention to sign Statutory Declaration for engagement of Solicitor Adrian Mueller, and attendance at CTTT hearing scheduled for 17 October 2012:

From: Peter Bone [mailto:PeterB@bcms.com.au]  
Sent: Thursday, September 27, 2012 04:37 PM  
To: Bruce Copland  
Cc: Paul Banoob  
Subject: SP 52948 - AGM

Good afternoon Bruce

Could you please confirm if the AGM is proceeding on 17th September 2012 or if you want to push it back to the following week?

In relation to the CTTT Hearing on 17th September, both Paul Banoob and I will be in attendance. My presence will be required as I will be signing a Statutory Declaration confirming that I, as the Strata Manager of the scheme, have provided Adrian Mueller with various records, documents, etc. belonging to the Owners Corporation.

46. Solicitor's second request was extension of time to submit files was granted in Tribunal's notice issued on 9 October 2012. Solicitor Adrian Mueller did not comply with CTTT orders for the third time:

**CONSUMER, TRADER & TENANCY TRIBUNAL**

158 / 1-15 Fontenoy Road  
MACQUARIE PARK NSW 2113


File No: SCS 12/32675  
(Quote in all enquiries)

**Application to the Tribunal concerning 1-15 Fontenoy Road MACQUARIE PARK NSW 2113 Australia – SP52948**

Correspondence has been received from the Applicant on 2/10/12 concerning the non-compliance with procedural directions. It is in the interest of all parties to comply with procedural directions. A party to proceedings must endeavour to comply with procedural directions despite the non-compliance of the other party.

Failure to comply may result in an adjournment of the matter and/or any submissions received after the compliance date not being admitted into evidence.

The correspondence has been placed on file and a copy sent to all parties. Any outstanding issues as to non-compliance with procedural directions should be raised at the next hearing.



**E Dziwniel**  
Team Leader  
09/10/12

47. SP52948 Chairperson Mr. Bruce Copland was fully aware of BCS Strata Management Peter Bone refusal to include Motions from Lot 158 at Annual General Meeting on 9 October 2012:



From: Bruce Copland  
 Subject: Re: SP 52948 - AGM  
 To: 'PeterB@bcms.com.au' <PeterB@bcms.com.au>  
 9/10/12, 4:43 pm

Peter

Up to you - if they can get it out quickly it will help. I was not aware it came out of the city.

I expect you will get another barrage from [REDACTED] about it complaining about not adding on more motions.

Thanks

Regards,  
 Bruce

Bruce Copland  
 Director, Toga Group  
 PO Box 1745, Strawberry Hills NSW 2012

48. SP52948 Executive Committee confirmed that levy arrears about \$10.00 would not be acceptable for voting at general meeting on 16 October 2012:

SP52948 AGM Final Proxy Status

**Subject:** SP52948 AGM Final Proxy Status  
**From:** Bruce Copland  
**Date:** 16/10/12, 10:14 pm  
**To:** "Peter Bone (PeterB@bcms.com.au)" <PeterB@bcms.com.au>

Peter,

I understand Mo Levitt informed you that one extra proxy had been delivered before close of business today.

I do need a clear decision on whether lot 127 is financial or not. The committee is not concerned about \$1 or \$2 but frankly anything more than \$10 is an issue.

I also need verification that units 84 and 148 are joint owners and that one signature is insufficient.

John Ward has a slate of 9 nominees for the committee which he will forward by email early tomorrow.

49. In CTTT case SCS 12/32675 Solicitor Adrian Mueller failed to comply with Tribunal orders three times:

1. Solicitor Adrian Mueller failed to comply with Directions Hearing orders in case SCS 12/32675 dated 8 August 2012 (deadline was 12 September 2012),
2. CTTT changed Solicitor Directions Hearing orders for Solicitor Adrian Mueller in file SCS 12/32675 on 26 September 2012 (extended to 8 October 2012), which Solicitor failed to comply with,
3. CTTT sent another reminder to Solicitor Adrian Mueller about non-compliance with Directions Hearing orders in file SCS 12/32675 on 9 October 2012, which Solicitor failed to comply with.

In parallel with activities to persuade CTTT to ignore Lot 158, Solicitor Adrian Mueller engaged in secret defamation threats on 10 September 2012, without owners corporation approval or knowledge. Solicitor also hid this effort from CTTT and Police:

(b) Defamatory Imputations

These statements carry a number of defamatory imputations about members of the executive committee, particularly [REDACTED] Raine & Horne Epping, and Paul Banoob, Gary Webb, Simon Wicks and John Fry of Raine & Horne Epping ("defamed persons").

These include imputations that the defamed persons:

- have engaged in unlawful activity;
- have committed crimes;
- have committed a fraud;
- have stolen (or aided and abetted the theft of) monies from the owners corporation of Macquarie Gardens;
- have used the monies of the owners corporation for their own personal benefit.

2. Demand

The statements made by you have caused hurt, distress and embarrassment to the defamed persons particularly due to the fact that you have circulated your letter among all residents of Macquarie Gardens.

(a) Court Proceedings

The defamed persons are entitled to commence proceedings against you immediately by way of a statement of claim in the District Court of NSW at Sydney seeking damages from you for defamation. The Court may order up to \$339,000.00 be paid to the defamed persons plus money for aggravated damages and legal costs. It is quite clear that your statements were made with malice in mind justifying an order for aggravated damages.

(b) Apology & Retraction

You should submit to us in writing by no later than midday, 13 September 2012:

- (i) a clear and unqualified retraction addressed to each of the defamed persons withdrawing the allegations made by you against them and stating that they are untrue;

- (ii) a clear and unqualified apology addressed to each of the defamed persons for making the false allegations against them;
- (iii) authority for the defamed persons to send your letter of retraction and apology to all of the owners and residents of Macquarie Gardens.

(c) Damages

The statements made by you in your letter were published to a number of people with whom the defamed persons have regular contact. For this reason the defamed persons are entitled to damages as well as the retraction and apology referred to. Please let us have, by the time set out above, in addition to your retraction and apology, your proposal as to financial damages payable by you to each of the defamed persons.

(d) No Further Notice

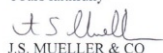
In the absence of a satisfactory reply from you within the time referred to, the defamed persons may commence proceedings against you for defamation forthwith. No further notice will be given to you prior to commencement of those proceedings.

(e) Injunction

Finally, you should ensure that no further utterances of this nature are made by you to any person otherwise the defamed persons may seek an interlocutory injunction restraining you from making any such further utterances.

This letter should be treated very seriously.

Yours faithfully

  
 J.S. MUELLER & CO

Overall, in period from 2012 to 2021 (CTTT cases SCS 12/32675 and NCAT SC 20/33352), Solicitor Adrian Mueller failed to comply with Tribunal orders six times whilst continuing to incur costs to owners and not providing any evidence to refute Lot 138 claims (Solicitor simply coerced the Tribunal to ignore Lot 158 evidence due to "absence" of the Respondent at Hearings).

50. At CTTT Hearing on 17 October 2012, Solicitor Adrian Mueller did not bring any evidence to court, including proof that he was legally approved to represent owners corporation through signed Standard Costs Agreement. Even more, he lied to the Tribunal about Lot 3 not being available at the Hearing due to overseas trip.
51. At CTTT Hearing on 17 October 2012, Solicitor Adrian Mueller signed the Agreement that Lot 158 would receive missing strata files:

Agreement  
This agreement is made on 17 October 2012  
Between: The Owners - Strata Plan No. 52948  
("OC")  
And: [REDACTED]  
("DB")  
Whereas:  
A. DB is an owner of a lot in Strata Plan No. 52948 and alleges that the OC has not provided to him or permitted him to inspect certain financial records of the OC ("allegation")  
B. The OC denies the allegation.  
C. The OC nevertheless is prepared to provide to DB certain financial records of the OC on a without admission basis to resolve the allegation.  
Agreement  
1. The OC will provide to DB by post within 14 days such of the financial records of the OC known as an "Expense Transactions Report" and a "Cash Book Payments Report" from and including the period 2008 to date as exist.  
Signed: [Signature] OC by its solicitor [Signature] DB U

Lot 158 document viewing at BCS Strata Management on 12 November 2012 showed many documents missing. Strata manager Mr. Paul Banoob's provided false promise that he would provide files as committed by Solicitor Adrian Mueller at CTTT Hearing on 17 October 2012:

From: Paul Banoob <[REDACTED]>  
To: "  
CC: Peter Bone <PeterB@bcms.com.au>  
Date: Tue, 13 Nov 2012 09:11:52 +1100  
Subject: RE: SUMMARY OF INCOMPLETE DOCUMENTATION: RE: REQUEST FOR ACCESS: SP52948 document viewing on 12 Dec 2012

**You have my word that all records will be looked at and any information we have will be sent to you.**

Regards

Paul Banoob  
Raine & Horne Strata-Sydney  
Level 2, 51 Rawson Street, Epping NSW

52. On the same day of the CTTT hearing in case SCS 12/32675, 17 October 2012 in the evening, SP52948 Annual General Meeting was conducted which did not discuss Solicitor Adrian Mueller costs or approved his engagement.

Meeting was non-compliant with SSMA 1996 Schedule 2 Section 12 2 (a) and (b), SSMA 1996 Section 80D, SSMA 1996 Section 230A, SSMA 1996 Schedule 2 Section 10 (8), SSMA 1996 Section 183, and Strata Schemes Management Regulation 2012, Part 5, Section 18:

- 32 owners present in person and 46 via proxy. Of 46 proxies, 35 were given to SP52948 Executive Committee Chairperson (who, along with a selective group of 17 (out of 26) townhouse owners (including one other member of the Executive Committee) received reimbursements for personal water and gas usage without Special Resolution or registered By-Law since year 2000 and 2001 respectively, hence directly decreasing their voting entitlements and being unfinancial. The same applied to a group of owners and committee members who did not pay levies for gas heating connections in prescribed amount. These secret and undeclared reimbursements were never provided in accounting books.
- Quorum was not satisfied.
- Paperwork for Annual General Meeting 2012 shows that number of owners who were not financial were allowed to vote (examples: Lot 30, Lot 160, Lot 195, Lot 206) - this was discrimination of owners who were disallowed to vote at AGM 2013 due to being in debt for amount as small as \$0.10.

#### proxy counts at AGM 2012:

# Strata Plan 52948

Proxies received for AGM 17th October 2012 (status as at 4:50pm Tuesday 16th October 2012)

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Unit No.	Owner's Name	Proxy Nominee	Meetings	Months	13	15	Financial Check	Chairman's Decisions
2	R T & N R GONSALVES	Bruce Copland	1	No	No	No	OK	
3	Lorna & Yigal Zelunzuk	Bruce Copland	1	No	No	No	OK	
5	Karyn Klein	Bruce Copland	1	No	Yes	No	OK	
10	Elizabeth Saulits	Bruce Copland	1	No	No	No	OK	
15	Marlene Baskin	Bruce Copland	1	6	No	BC	OK	
33	J Wang & Q Wang	Bruce Copland	1	Yes	Yes	Yes	OK	
34	J Wang & Q Wang	Bruce Copland	1	Yes	Yes	Yes	OK	
39	Shirley Bruce	Bruce Copland	1	No	Yes	OK	OK	
40	C Low	Bruce Copland	1	BC	BC	BC	OK	
42	Thelma Pincus	Moses Levitt	1	No	No	No	OK	
44	Leon & Mary Shohmelian	Bruce Copland	1	12	BC	BC	OK	
49	John Ward	Bruce Copland	1	Yes	Yes	Yes	OK	
53	R & D Baskow	Bruce Copland	1	Yes	Yes	Yes	OK	
57	John Ward	Bruce Copland	1	Yes	Yes	Yes	OK	
62	Upali & Marguerite Aranwela	Bruce Copland	1	No	Yes	OK	OK	
73	Sam & Sandra Blechman	Bruce Copland	1	No	Yes	OK	OK	
80	Sheila Benicar	Moses Levitt	1	No	No	No	OK	
84	K S & K C KIM	Hoo J. Kim	1	HJK	HJK	HJK	OK	Only 1 signature?
93	Pamela Gibbons	Chairman	1	12	BC	BC	OK	
106	Ronny Marks	Chairman	1	12	DB	DB	OK	
111	Tammy Chan	Hoo J. Kim	1	12	HJK	HJK	OK	
114	MR D MACMASTER	Bruce Copland	1	Yes	Yes	Yes	OK	
123	Joanne Hessink	Hoo J. Kim	1	HJK	HJK	HJK	OK	
127	H KWON & A CHOI	Chairman	1	Yes	Yes	Yes	OK	
136	Timothy & Susan Kemsley	Chairman	1	Yes	Yes	Yes	OK	
137	Timothy & Susan Kemsley	Chairman	1	Yes	Yes	Yes	OK	
142	Genelle Godbee	Bruce Copland	1	No	No	No	OK	
148	MR & MRS P YEEND	Bruce Copland	1	No	Yes	OK	OK	Only 1 signature?
150	MS D NIAR	Bruce Copland	1	BC	BC	BC	OK	Proxy signed by POA - copy attached
152	F KIM	Hoo J. Kim	1	HJK	HJK	HJK	OK	
156	Barry Slon	Moses Levitt	1	No	No	No	OK	
160	Harry George Poulos	Chairman	1	BC	BC	2.30	Outstanding amount negligible	
162	J & J Marshall	Moses Levitt	1	No	No	No	OK	
164	Paul Keating & Kaleshni Narayan	Bruce Copland	1	Yes	Yes	Yes	OK	
168	Elana Sacks (Elray Australia P/L)	Bruce Copland	1	No	No	No	OK	
176	Shaoyun Zhu	Bruce Copland	1	Yes	Yes	Yes	OK	
177	Michael Chan	Bruce Copland	1	No	No	No	OK	
188	Ronald Lee	Chairman	1	12	DB	DB	OK	
195	Marc Diacono	Chairman	1	12	BC	BC	1.46	Outstanding amount negligible
196	SM Woo & YJ Gee	Chairman	1	Yes	Abstain	OK	OK	
197	H H YUN & H S KAE	Hoo J. Kim	1	HJK	HJK	HJK	OK	
198	X U	Bruce Copland	1	No	No	No	OK	
200	JL & E Gore	Bruce Copland	1	No	No	No	OK	
203	Yan Chen	Bruce Copland	1	BC	BC	3.01	Outstanding amount negligible	
205	SUN HWANG	Hoo J. Kim	1	HJK	HJK	HJK	OK	
206	A (partner deceased)	Bruce Copland	1	BC	BC	BC	OK	Single Signature Acceptable
209	Robert Brown	Bruce Copland	1	BC	BC	BC	OK	
210	John Lee Hulmin Rong	Bruce Copland	1	Yes	Yes	Yes	OK	
216	Chevonne Perera	Bruce Copland	1	Yes	Yes	Yes	OK	
218	J Wang & Q Wang	Bruce Copland	1	Yes	Yes	Yes	OK	
219	Jean Young	Bruce Copland	1	12	BC	BC	OK	
Total received			51		51	51		

Summary	Proxy holder	Proxies held	13	15
	Bruce Copland	32	BC	11
	Chairman	7	DB	2
	Moses Levitt	4	HJK	6
	Hoo J. Kim	2	Yes	14
		6	No	18
			Abstain	0
	Total received	51	51	51

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- Paperwork for Annual General Meeting 2012 shows that number of owners who did not pay prescribed levies for gas heating connection were allowed to vote or act as proxies (Lot 3, Lot 62, Lot 147, Lot 148, Lot 167, Lot 181, Lot 209)
- When more than nine candidates are present for the committee, and two or three of them are unfinancial, all others automatically become valid members, and that was the question sent by O'Brien Criminal & Civil Solicitors to Solicitor Adrian Mueller, which was never answered since 24 April 2020.

Based on comprehensive evidence, Lot 158 was a valid member of the Executive Committee in the following years due to the following owners not declaring second gas connection and not paying prescribed levies (including 10% simple interest for overdue levies per year):

FY 2013, two unfinancial members on the committee: Lot 147, Lot 181 (total number of candidates: 10, selected 9, two not valid, hence Lot 158 should have been automatically elected on 17 October 2012)

FY 2015, two unfinancial members on the committee: Lot 147, Lot 181 (total number of candidates: 10, selected 9, two not valid, hence Lot 158 should have been automatically elected on 26 November 2014)

FY 2018, three unfinancial members on the committee: Lot 88, Lot 147, Lot 181 (total number of candidates: 11,



selected 9, three not valid, hence Lot 158 should have been automatically elected on 18 October 2017)

FY 2019, three unfinancial members on the committee: Lot 88, Lot 147, Lot 181 (total number of candidates: 10, selected 9, three not valid, hence Lot 158 should have been automatically elected on 17 October 2018)

FY 2020, three unfinancial members on the committee: Lot 88, Lot 147, Lot 181 (total number of candidates: 10, selected 9, three not valid, hence Lot 158 should have been automatically elected on 28 October 2021)

FY 2023, three unfinancial members on the committee: Lot 88, Lot 147, Lot 181 (total number of candidates: 10, selected 9, three not valid, hence Lot 158 should have been automatically elected on 27 October 2022)

- Secret non-prescribed proxy form delivered by hand to selective owners with special instructions how to vote. This proxy form was not part of the agenda for the meeting.

As approved by the Chairperson of the committee Mr. Bruce Copland, the image on the right is an example of secret proxy form given to selective owners, with direct instructions how to vote in favour of what he and committee members wanted, while the image on the left is a proxy form sent to majority of other owners:

PROXY APPOINTMENT FORM  
STRATA SCHEMES MANAGEMENT ACT 1996

I/we TIMOTHY & SUSAN KEMSLEY DATE 5/10/2012  
Insert full name of owner(s) above Insert day signed above

the owners of Lot 136 Strata Plan No 52948  
Insert apartment/townhouse number above

appoint THE MEETING CHAIRPERSON or Bruce Copland of 202/1-15 Fontenay Road, Macquarie Park  
(delete "the meeting chairperson" if nominating an individual)

as my/our proxy for the purposes of meetings of the owners corporation (including adjournments of meetings)

Period or number of meetings for which appointment of proxy has effect 1 meeting/meetings.  
(Note: The appointment cannot have effect for more than 12 months or 2 consecutive annual general meetings, whichever is the greater.)

\* Delete whichever does not apply

\*1 This form authorises the proxy to vote on my/our behalf on all matters

OR

\*2 This form authorises the proxy to vote on my/our behalf on the following matters only:  
Voting FOR Motions 1-16  
On Motion 19 (Executive Committee Votes) we will not vote for anyone representing units 92, 102, 111, 129, 153, 158, 162 or 188  
We vote AGAINST Motions 20-29  
(Specify the matters and any limitations on the manner in which you want the proxy to vote.)

\*Delete paragraph 1 or 2, whichever does not apply.

\*3 If a vote is taken on whether the strata managing agent should remain in office or another managing agent is to be appointed, I/we want the proxy to vote as follows:

\*Delete paragraph 3 if proxy is not authorised on this matter.

Signature of owner(s) Timothy Kemsley Susan Kemsley

Notes

- A proxy is not authorised to vote on a matter:
  - if the person who appointed the proxy is present at the relevant meeting and personally votes on the matter, OR
  - so as to confer a pecuniary or other material benefit on the proxy, if the proxy is a strata managing agent, caretaker or on-site residential property manager.
- This form is ineffective unless it contains the date on which it was made and is given to the Secretary of the Owners Corporation:
  - in the case of a large strata scheme (more than 100 lots - excluding parking or utility lots), at least 24 hours before the first meeting in relation to which it is to operate; or
  - in any other case, at or before the first meeting in relation to which the instrument is to operate.
- This form will be revoked by a later proxy appointment form delivered to the secretary of the owners corporation in the manner described in the preceding paragraph.

PROXY APPOINTMENT FORM  
STRATA SCHEMES MANAGEMENT ACT 1996

I/we LORNA & YIGAL ZELUNZUK DATE 14 October 2012 (last possible day is 16/10/2012)  
Insert full name of owner(s) above Insert day signed above

the owners of Lot 3 Strata Plan No 52948  
Insert apartment/townhouse number above

appoint THE MEETING CHAIRPERSON or Bruce Copland of 202/1-15 Fontenay Road, Macquarie Park  
(delete "the meeting chairperson" if nominating an individual)

as my / our proxy for the purposes of meetings of the owners corporation (including adjournments of meetings)

Period or number of meetings for which appointment of proxy has effect One (1) meeting/meetings.  
(Note: The appointment cannot have effect for more than 12 months or 2 consecutive annual general meetings, whichever is the greater.)

\*1 This form authorises the proxy to vote on my/our behalf on all matters

OR

\*2 This form authorises the proxy to vote on my / our behalf on the following matters only:  
For Motions 1, 2, 3, 4 (a), 4 (b), 5, 6, 7, 8, 9, 10, 11, and 12 - Please vote in favour.  
For Motion 13 (New entrance path to Lane Cove Rd) - Please vote in favour / against (please circle your choice)  
For Motion 14 (Approve budget of \$30,000 for New entrance path to Lane Cove Rd) - Please vote as per motion 13  
For Motion 15 (New gatehouse for security staff) - Please vote in favour / against (please circle your choice)  
For Motion 16 (Approve budget of \$40,000 for New gatehouse for security staff) - Please vote as per motion 15  
For Motions 17, 18 & 19 - Please vote as you see fit  
For Motions 20, 21, 22, 23, 24, 25, 26, 27, 28 and 29 Please vote against  
If Motions 13, 14, 15 or 16 are not marked proxy is to vote in favour.  
For any other matters the proxy is to vote as he sees fit.

\*3 If a vote is taken on whether the strata managing agent should remain in office or another managing agent is to be appointed, I/we want the proxy to vote as follows:

\*Delete paragraph 3 if proxy is not authorised on this matter.

Signature(s) of all owner(s) L Zelnuzk Y Zelnuzk

If two owners two signatures three owners three signatures etc.

Notes

- A proxy is not authorised to vote on a matter:
  - if the person who appointed the proxy is present at the relevant meeting and personally votes on the matter, OR
  - so as to confer a pecuniary or other material benefit on the proxy, if the proxy is a strata managing agent, caretaker or on-site residential property manager.
- This form is ineffective unless it contains the date on which it was made and is given to the Secretary of the Owners Corporation:
  - in the case of a large strata scheme (more than 100 lots - excluding parking or utility lots), at least 24 hours before the first meeting in relation to which it is to operate; or
  - in any other case, at or before the first meeting in relation to which the instrument is to operate.
- This form will be revoked by a later proxy appointment form delivered to the secretary of the owners corporation in the manner described in the preceding paragraph.

- 12 Motions by Lot 158 were misquoted and misconstrued and two Motions not even included on the agenda. One of the Motions that was disabled by Solicitor Adrian Mueller with premeditated plan to obtain personal benefits:

#### MOTION SUBMITTAL: SP52948 Improved Dispute Resolution Process

##### Justification:

Recent experience shows potential for an abuse where members of the Executive Committee, without an attempt to resolve disputes at internal meetings within the complex, or through mediation at Department of Fair Trading, engaged legal advice for purely private reasons, without consultation with the owners.

The voting for this Motion applies as follows:

Vote YES - Approve Motion to Improved Dispute Resolution Process.  
Vote NO - Reject this Motion.

##### Motion:

The Owners Strata Plan 52948 No. 52948 (the "Owners Corporation") by ORDINARY RESOLUTION (simple majority vote), pursuant to Section 52 of the Strata Schemes Management Act 1996, make a By-Law:

##### SP52948 Improved Dispute Resolution Process

1) The Executive Committee shall attempt to resolve all disputes at internal meetings in the first instance.

2) If unsuccessful, and mediation through Department of Fair Trading follows, it shall be compulsory and cannot be declined by the Executive Committee.

Failure to comply with this section compromises the dispute resolution process and makes it more costly and time-consuming, especially if legal advice or service is engaged.

3) In the event that none of the above actions bring reasonable outcome of the dispute, the Executive Committee shall ask for an authority to seek legal advice at a general meeting by providing full details of the anticipated costs.

9) To the extent of any inconsistency with previous by-laws or motions, this motion prevails.

28/09/12	Perusing and advising on motions requested by	\$132.00	\$13.20
05/10/12	Attending strata manager on telephone to discuss AGM and chairman's report	\$88.00	\$8.80
10/10/12	Perusing emails from concerning failure to include motions on agenda for upcoming AGM to be used in evidence in CTTT appeal and request to withdraw CTTT appeal	\$132.00	\$13.20
11/10/12	Perusing letter from Tribunal regarding non-compliance with procedural directions	\$44.00	\$4.40
16/10/12	Perusing further emails from concerning CTTT appeal and 2012 AGM	\$88.00	\$8.80

- Secret and unapproved reimbursements for private water and gas usage to selective townhouse owners applied discriminately and details undisclosed to owners for 13 years at the time of AGM 2012.

Building report by Napier & Blakeley not presented to owners although it was completed in July 2012 and allegedly



decided at committee meeting on 9 July 2012.

- Illegal ballot paper was used at the meeting (it must be handwritten by each owner, and only allowed for financial owners). This is an example of what BCS Strata Management counted as valid vote from unfinancial owner Mr. Moses Levitt:

**ELECTION OF EXECUTIVE COMMITTEE**  
**STRATA PLAN 52948**  
ANNUAL GENERAL MEETING - 17 OCTOBER 2012

	Persons Nominated	Please Indicate
1	Bruce Copeland - (Townhouse 202)	X
2	Moses Levitt - (Tower A, unit 147)	X
3	Maureen McDonald - (Tower A, unit 151)	X
4	Stan Pogorelsky - (Tower A, unit 181)	X
5	Sandi Quick - (Tower D, unit 130)	X
6	Betty Saultis - (Tower B, unit 10)	X
7	Jeff Wang - (Townhouse 218, units 33 & 34)	X
8	John Ward - (Tower C, units 49 & 57)	X
9	Raphael Hirschhorn - (tower D, unit 133)	X
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		

Name Moses Levitt

Unit No. 147.

Signature Moses Levitt

- Mr. Moses Levitt and Mr. Stan Pogorelsky were allowed to vote and be members of the Executive Committee whilst unfinancial (in direct non-compliance with SSMA 1996), effectively making Lot 158 a legal committee member. Extract from Minutes of AGM 2012 where Chairman was Mr. Bruce Copland:

*No. 19 To receive nominations for the Executive Committee, and to elect the Executive Committee*

*Nominations were received for the following owners: B Copland, M Levitt, M McDonald, S Pogorelsky, S Quick, B Saultis, J Wang, R Hirshhorn & Lot 158.*

*There being ten (10) nominations received a ballot was conducted.*

*The Chairman declared the following owners elected by majority ballot:*

*B Copland, M Levitt, M McDonald, S Pogorelsky, S Quick, B Saultis, J Wang, R Hirshhorn*

- BCS Strata Management, Executive Committee, and Solicitor Adrian Mueller prevented owners from having knowledge that due to high number of water leaks and damages, insurance policy changed dramatically and applied excess of \$10,000.00 for water damages, burst pipes, and exploratory costs for each and every claim:

**Excesses:**

SECTION 1	Earthquake	For each claim or series of claims during a period of 72 hours for loss or damage caused by Earthquake or Tsunami:	
		i. Where the Building(s) Sum Insured is up to \$5,000,000 and the Building is occupied solely for residential purposes; or	\$ 250
		ii. Where the Building Sum Insured is greater than \$5,000,000 and the Building is occupied solely for residential purposes; or	\$ 20,000 or 1% of the Building Sum Insured (whichever is the lesser)
		iii. Where the Building is occupied partly or solely for commercial purposes	\$ 20,000 or 1% of the Building Sum Insured (whichever is the lesser)
SECTION 1	Water Damage/Burst Pipe/Exploratory Cost on each & every claim		\$ 10,000
SECTION 1	Flood Damage claims		\$ 5,000
SECTION 1	All Other Claims as per Policy Wording and		\$ 1,000
SECTION 2	For each and every claim		\$ 250
SECTION 3	For each and every claim		\$ 250
SECTION 4	7 days		
SECTION 5	For each and every claim		\$ 250
SECTION 6	For each and every claim for loss of damage to machines		\$ 5,000 - Chillers, Cooling Works, Generators & Central Air Conditioners \$ 2,500 – Lifts and pump motors 1,000 – All Other Losses
SECTION 7	For each and every claim		\$ 10% of all Legal Expenses or \$1,000 for each claim, whichever is the greater
SECTION 8	For each and every claim		\$ 250

**53. Lot 158 sent letter with concerns to Solicitor Adrian Mueller on 18 October 2012:**

To: Adrian Mueller <AdrianMueller@lowes.com.au>

Cc:

Bcc:

Subject: CTTT File No. SCS12/32675

Paragraph Calibri, sans-serif (not installed)

Hi Adrian,

Many thanks for a prompt response in this matter.

I appreciate it.

Last night, by pure coincidence, I met Lot owner 3 who attended AGM too. As you might remember, we agreed not to pursue Orders for By-Law 4 due to owners' holiday, as per your statement. Whoever gave you such information was incorrect and made you give a wrong statement at the Tribunal.

I asked the managing agent to provide me with their insurance details by tomorrow (apparently, the owner gave them for all years since 2003 when the By-Law was introduced). If the documents get provided to me by tomorrow, I will be happy to forget about that Order. If not, I think I will have to report it to the CTTT.

Last night at AGM the following was confirmed or reported:

a) The water and gas rebates for some townhouse owners were never approved by a special resolution. That means they were seemingly invalid for all 13 years. Such decision can only be made by special resolution.

I asked the managing agent to provide me with the official copy of it by tomorrow so that I can rely on it.

b) In addition, it seems that such "resolution" in 1999 did not contain any detail about forbidding townhouse owners claiming rebates retrospectively.

If that is so, I believe the EC did not have any legal right to prevent some townhouse owners to claim them for the previous years (only QC can make such a decision).

c) The details of the water and gas rebates for townhouse owners for 2012 was not given last night. Chairperson claimed he "did not know" and no other member of the EC and the managing agent knew either. I asked for clear and full information by tomorrow.

d) Finally, I also asked about insurance broker receiving any commission or benefits. Chairperson responded that he did not believe so. From the 2010 financial documents I found out that there was around 11% difference in what we paid for insurance premiums and what we paid to the insurance broker. The managing agent was asked to provide a response what that difference meant and document the figures for 2012.

I also enclose my other email address (home site).

I am very easy to deal with when information I ask for is precise and open. When I see holes in responses from people, I tend to investigate them.

I trust we can finish this rubbish work and get back to proper life. Frankly, I am tired of chasing people. I have done it for too long through my work in enforcement agencies. I do not need it anymore.

**Transcript of part of the email:**

*Last night, by pure coincidence, I met Lot owner 3 who attended AGM too. As you might remember, we agreed not to pursue Orders for By-Law 4 due to owners' holiday, as per your statement. Whoever gave you such information was incorrect and made you give a wrong statement at the Tribunal.*

*I asked the managing agent to provide me with their insurance details by tomorrow (apparently, the owner gave them for all years since 2003 when the By-Law was introduced). If the documents get provided to me by tomorrow, I will be happy to forget about that Order. If not, I think I will have to report it to the CTTT.*

*Last night at AGM the following was confirmed or reported:*

*a) The water and gas rebates for some townhouse owners were never approved by a special resolution. That means they were seemingly invalid for all 13 years. Such decision can only be made by special resolution.*

*I asked the managing agent to provide me with the official copy of it by tomorrow so that I can rely on it.*

b) In addition, it seems that such "resolution" in 1999 did not contain any detail about forbidding townhouse owners claiming rebates retrospectively.

If that is so, I believe the EC did not have any legal right to prevent some townhouse owners to claim them for the previous years (only OC can make such a decision).

c) The details of the water and gas rebates for townhouse owners for 2012 was not given last night. Chairperson claimed he "did not know" and no other member of the EC and the managing agent knew either. I asked for clear and full information by tomorrow.

d) Finally, I also asked about insurance broker receiving any commission or benefits. Chairperson responded that he did not believe so. From the 2010 financial documents I found out that there was around 11% difference in what we paid for insurance premiums and what we paid to the insurance broker. The managing agent was asked to provide a response what that difference meant and document the figures for 2012.

I also enclose my other email address (home site).

I am very easy to deal with when information I ask for is precise and open. When I see holes in responses from people, I tend to investigate them.

I trust we can finish this rubbish work and get back to proper life. Frankly, I am tired of chasing people. I have done it for too long through my work in enforcement agencies. I do not need it anymore.

54. Solicitor Adrian Mueller in letter to CTTT confirmed that Lot 3 was not part of CTTT proceedings on 26 October 2012:

**J.S. MUELLER & CO.**  
SOLICITORS & ATTORNEYS  
ESTABLISHED 1979

JEFFREY STEVEN MUELLER, B.Com., LL.B.  
BRUCE WILLIAM BENTLEY, B.A., LL.B., LL.M.

1st Floor  
240 Princes Highway  
Arncliffe NSW 2205  
Australia  
DX 25315 Rockdale  
Tel: 02 9562 1266  
Fax: 02 9567 8551

Our Ref: AM:22012

26 October 2012

The Registrar  
Consumer, Trader and Tenancy Tribunal  
GPO Box 4005  
SYDNEY NSW 2001

Also by facsimile: 1300 135 247

**Attention: Senior Member Harrowell**

Dear Sir

**RE: OWNERS CORPORATION SP 52948**  
**FILE NO.: SCS 12/32675**

---

We act for the respondent, Owners Corporation SP52948 ("owners corporation").

Pursuant to the orders made by Senior Member Harrowell on 17 October 2012, we make the following submissions on behalf of the owners corporation in response to the submissions made by the applicant ( ) on 24 October 2012.

**Submissions**

1. ( ) submits that at the hearing on 17 October 2012 the writer "falsely stated that owners of Lot 3 were absent and not able to attend the hearing in regards to order 4 as listed in my request". That accusation is wrong. The writer indicated that no order could be made against the owners of Lot 3 (such as order 4) because the owners were not present at the hearing and, more importantly, are not a party to the proceedings as a result of which it would be a denial of procedural fairness to make any order against them.

It did not stop BCS Strata Management and Executive Committee members to submit second insurance claim in amount of \$12,714.65 for "CTTT Defence Lot 3" that was paid out on 7 December 2012:

GALLAGHER BROKING SERVICES  
PO BOX 6007  
NORTH SYDNEY, NSW 2060

11 DEC 2012

Any claims settlements payable to insureds have been made in accordance with the GST information provided at lodgement stage.

Description of Claim: CIII DEFENCE LOT 3 ; Pol No.NNR836665  
THE OWNERS -SP 52948

07/12/12

Claim Number	Incident Date	Excess	Total Amount of Cheque
NH201212589 - 2	12/06/2012	\$ 0.00	\$ 12,714.65

12 December 2012

Ron Sinclair  
Raine & Horne Strata  
Locked Bag 22  
Haymarket NSW 1238

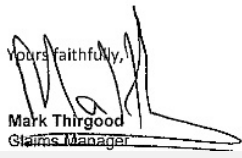
Dear Ron,

Strata Plan 52948

Our Ref 4148

Please find enclosed CHU Underwriting Agencies Pty Ltd cheque for \$12,714.65 in reimbursement of the legal costs less GST \$1,271.47

Yours faithfully,

  
Mark Thirgood  
Claims Manager

55. Lot 158 document viewing at BCS Strata Management on 12 November 2012 including strata manager Paul Banoob's false promise that he would provide files as committed by Solicitor Adrian Mueller at CTTT Hearing on 17 October 2012 (Signed agreement by Solicitor Adrian Mueller at CTTT Hearing in case SCS 12/32675 on 17 October 2012).
56. Solicitor Adrian Mueller was made aware of CTTT case SCS 12/5460 on 19 October 2012 and submission about his false statements at Hearing in CTTT case SCS 12/32675:

**Subject:** FACSIMILES SENT TO CTTT: SCS 12/32675 12/50450 and 12/50460 on 19 October 2012

**From:** [REDACTED]

**Date:** 19/10/12, 11:59 am

**To:** Adrian Mueller <AdrianMueller@lowes.com.au>

**CC:** Peter Bone <PeterB@bcms.com.au>

Hello,

I am trying very hard to minimize the damage to the Strata Plan and all parties involved.

But, that seems to be difficult in spite of all my efforts. I have been vilified, ridiculed and even threatened. I can handle it. That does not worry me.

I have put lot of people behind bars through my work in enforcement agencies overseas. None of them liked me, which is understandable. We have serious business to run together and there is only way to do it. I am sure you would do the same for your own property.

None of the five requests for information to give the EC final chance since Wednesday evening to respond by this morning was addressed.

I have to take a decisive measure to send two facsimiles to the CTTT, which I did just now.

Through this email, I also request that the Executive Committee ensures that these FULL details be listed in the minutes of the AGM meeting.

Sincerely,

57. On 5 December 2012, accepting Solicitor Adrian Mueller's claims without any evidence, and not even verifying that he was legal representative of SP52948, CTTT dismissed case SCS 12/32675:



CONSUMER, TRADER & TENANCY TRIBUNAL  
NOTICE OF ORDER

158 / 1-15 Fontenoy Road  
MACQUARIE PARK NSW 2113

File No: SCS 12/326  
(Quote in all enquiries)

Application to the Tribunal concerning 1-15 Fontenoy Road MACQUARIE  
PARK NSW 2113 Australia - SP52948

Enclosed is a copy of the reserved decision from the hearing of this matter on  
17-OCT-2012.

1. Appeal dismissed.

E Mozgawa  
for the Registrar  
05/12/12

58. Email exchanges on 7 December 2012 between nine committee members and BCS Strata Management Peter Bone showed their extreme pleasure with the results of CTTT dismissing case SCS 12/32675. Email recipients: Mr. Bruce Copland (recipient of undeclared water and gas reimbursements for private use since 1999), Mr. Moses Levitt (unfinancial owner due to unpaid full levies for gas heating since 2001), Mr. Stan Pogorelsky (unfinancial owner due to unpaid full levies for gas heating since 1999), Mr. Upali Aranwela (unfinancial owner due to unpaid full levies for gas heating since 1999), Mrs. Elizabeth Saulits, Mr. Jeffery Wang, Mr. John Ward, Mrs. Maureen McDonald, Mr. Rafel Hirschhorn, and Mr. Peter Bone (strata manager at BCS Strata Management):

**Subject:** RE: CTTT Decision  
**From:** Mo & Zelda Levitt  
**Date:** 7/12/12, 8:46 am  
**To:** 'Bruce Copland' <PeterB@bcms.com.au>,  
<JWARD@>, <esaulits@>,  
<jeffrey@>, <mcdonald151@>, <hirsch25@>,  
<pogo@>, <uaranwela@>

Fantastic! Agreed it should be circulated to all owners (AND residents?) with decisions highlighted.  
Can all 12 pages be displayed on the Notice Boards? Otherwise only the decisions.

Mo

From: Bruce Copland [mailto:PeterB@bcms.com.au]  
Sent: Friday, 7 December 2012 8:18 AM  
To: 'PeterB@bcms.com.au'; 'JWARD@>; 'esaulits@>;  
'jeffrey@>; 'mcdonald151@>; 'zelleve@>;  
'hirsch25@>; 'pogo@>; 'uaranwela@>  
Subject: Re: CTTT Decision

Peter,

We should display this on the notice boards!

Subject to Adrian's advice, I would like to circulate all owner's with this decision and the AGM minutes - I will supply you a copy with the "draft" watermark removed.

We should do this with a copy of latest committee minutes on Monday.

Bruce

59. After two insurance claims in amount of \$13,082.29 without disclosure to owners (Lot 3 insurance Claim 1 on 31 August 2012 (\$367.64) and Lot 3 insurance Claim 2 on 7 December 2012 (\$12,714.65), Solicitor Adrian Mueller secretly initiated legal cost recovery for his expenses at CTTT without owners corporation knowledge or approval on 10 December 2012, in spite of them already being paid by insurance company:

**J.S. MUELLER & CO.**  
SOLICITORS & ATTORNEYS  
ESTABLISHED 1976

JEFFREY STEVEN MUELLER, B.Com., LL.B.  
BRUCE WILLIAM BENTLEY, B.A., LL.B., LL.M.

1st Floor  
240 Princes Highway  
Ardcliffe NSW 2205  
Australia  
DX 25315 Rockdale  
Tel: 02 9502 1266  
Fax: 02 9567 8551

Our Ref: AM:DR:22012

10 December 2012

The Registrar  
Consumer, Trader and Tenancy Tribunal  
GPO Box 4005  
SYDNEY NSW 2001

Also by facsimile – 1300 135 247

Dear Registrar

RE: [REDACTED] -v- OWNERS CORPORATION STRATA PLAN 52948  
FILE NO.: SCS 12/32675

We act for the respondent in this matter, Owners Corporation Strata Plan 52948.

On 5 December 2012 Senior Member Harrowell made an order dismissing the appeal in this matter.

We have been instructed to apply for an order that the appellant, [REDACTED] pay the respondent's costs of the appeal pursuant to section 192 of the *Strata Schemes Management Act 1996*.

We therefore request that the matter be relisted before Senior Member Harrowell on a convenient date for the purpose of hearing an application for costs by the respondent.

We respectfully request that the matter not be relisted during the New Year holiday period between 21 December 2012 – 14 January 2013.

Yours faithfully

J.S. MUELLER & CO

60. Two committee members (Mr. John Ward and Mr. Bruce Copland) asked BCS Strata Management Mr. Peter Bone to publish decision for SCS 12/32675 on notice boards after consultation with Solicitor Adrian Mueller to cause deliberate reputational damage to Lot 158 based (knowing that statements by Solicitor Adrian Mueller to CTTT were false and misleading) on 14 December 2012:

**Subject:** RE: CTTT Decision  
**From:** "WARD, John" <[REDACTED]>  
**Date:** 14/12/12, 7:33 am  
**To:** "'PeterB@bcms.com.au'" <PeterB@bcms.com.au>  
**CC:** Bruce Copland <[REDACTED]>

Peter,

The CTT decision has not been displayed on the notice boards as requested. Can you please advise why the delay?

While all owners received a copy in the mail, people renting that have received the mail form our friend in their mail box will not know of the decision.

Please advise.

John

John G Ward

49/1-15 Fontenoy Road North Ryde 2113

POSTAL - PO Box 1803 North Sydney 2059

61. BCS Strata Management Peter Bone, as advised by Solicitor Adrian Mueller, refused access to strata files to Lot 158 on 4 February 2013 although Lot 158 was actually legal member of the committee:

**Subject:** RE: ACCESS TO INSPECT RECORDS REQUESTED: SP52948  
correspondence by EC members and Solicitor from January 2012 to February 2013

**From:** Peter Bone <PeterB@bcms.com.au>

**Date:** 4/2/13, 2:50 pm

**To:**

**CC:** "'Adrian Mueller'" <AdrianMueller@lowes.com.au>, Paul Banoob

Good afternoon

1) Correspondence from J S Mueller & Co to Raine & Horne Strata is privileged. You are not entitled to inspect same.

2) Correspondence from executive committee members to Raine & Horne Strata that was prepared for the purpose of the Owners Corporation receiving legal advice or legal services concerning the CTTT proceedings is also privileged.

3) Raine & Horne Strata is not required to sift through and produce only specified records for you to undertake a book inspection. Raine & Horne Strata is only required to produce for your inspection the records mentioned in section 108 (except privileged documents).

4) must pay the prescribed fee before he is entitled to inspect any records of the owners corporation.

Please contact our receptionist at [strata@bcms.com.au](mailto:strata@bcms.com.au) to arrange a date / time for your inspection.

Thank you.

Peter Bone

Raine & Horne Strata-Sydney

BCS Strata Management Mr. Paul Banoob was recipient of the email as well.

62. Solicitor Adrian Mueller provides such advice to protect own financial interests, being well aware of the following decision in Eastmark Holding Pty Ltd vs Kabraji (No 3) NSW 1463 case, where Supreme Court held that the developer of a large residential building in Berry Street North Sydney was entitled to inspect legal advice given to the owners corporation:

### **Evidence that Solicitor Mr. Adrian Mueller applied double-standards for own protection – published on his website on 2Apr2013**

#### **Are You Entitled to Inspect Legal Advice**

Tuesday, 02nd April 2013



The answer appears to be "yes" according to a recent decision of the NSW Supreme Court. But the jury is still out on whether a lot owner who is directly involved in the litigation with an owners corporation is entitled to inspect legal advice given to the owners corporation concerning the litigation.

#### **Supreme Court Case**

In *Eastmark Holding Pty Ltd - v - Kabraji (No 3)* 2012 NSWSC 1463, the Supreme Court held that the developer of a large residential building in Berry Street, North Sydney was entitled to inspect legal advice given to the owners corporation of the building concerning litigation in which the developer is involved.

63. SP52948 Chairperson of the committee Mr. Bruce Copland gave secret instructions to BCS Strata Management Mr. Peter Bone about CTTT evidence not allowed to be provided to anyone perhaps even after legal case was closed on 18 February 2013, highlighting the fact to prevent prosecution of Solicitor Adrian Mueller and members of the committee. The email was also sent to another committee member Mr. John Ward:

From: Bruce Copland  
 Subject: SP 52948 committee meeting  
 To: John Ward  
 Cc: Peter Bone' <PeterB@bcms.com.au>  
 18/2/13, 6:12 pm

John,

I have just been told ten minutes ago that the chairman of my major overseas client is coming into Sydney on Wednesday and Thursday only and I am required to meet with him and various bankers well into Wednesday night.

So far I have avoided missing meetings over the last ten years but it looks like I have no choice for Wednesday. The committee can appoint a chair for the night and as I understand it proxies do not apply although anything contentious you can always vote to have a circular paper resolution to get a full committee input. Maureen will of course be absent otherwise you should have a full committee.

Not much I can do in this case but make a very late apology.

I think as far as [redacted] issue is concerned the less minuted the better other than to note that he has been advised that all correspondence concerning matters which have he has taken to the CTT and on which we have received legal advice are privileged and therefore cannot be provided to anyone until the matters are resolved finally (and perhaps not even then). You can note that solicitors have been instructed to ask CTTT to seek a costs order against him for the frivolous and timewasting processes he has caused.

Iâ€™ll not be available even by phone that evening.

I have sourced and given Ruth cleaning instructions for pavers that minimises high pressure water use and requires only a stiff broom, regular hose pressure and a weak solution of swimming pool chlorine on a sunny day!.

If that fails weâ€™ll resort to buying equipment and doing it progressively. The trick is to use the labour we have already paid for in the contract and minimise excessive water use.

Apologies again for urgent change of plans.

Bruce

64. On 24 February 2013, BCS Strata Management Mr. Peter Bone was sent an email with advance notice for issue of summons prepared for 25 February 2013 submission to CTTT:

From: SP52948 Lot 158  
 To: Peter Bone <PeterB@bcms.com.au>  
 Subject: ADVANCED NOTICE: Peter Bone will be issued with CTTT summons to produce documents on 25 February 2013

Body Text | Variable Width

Hello Peter,

It is time to speed up the efforts to close off the CTTT cases.

As per the attached scan, CTTT will issue you with my summons to produce document and responses to number of outstanding questions in regards to SCS 12/32675 and 12/50460.

CTTT will provide you with my questions and the requests. Alternatively, I can send them in read-only PDF format when the CTTT logs it in their evidence.

Note that I have submitted an interim response for SCS 12/32675 this weekend (while still missing the access to the Respondent's files). That will be sorted out soon as I am in contact with the CTTT. I am very happy with what I generated so far.

I observe all three Strata Managers that I intend to issue with summons to provide evidence at the Hearing in SCS 12/32675 and 12/50460 have renewed their licenses (including Mr John Fry).

At this stage, I am not interested in bringing you to give evidence before the Tribunal in SCS 12/50460. The following people will be requested to attend and if they are not already aware of it, I strongly suggest that you notify them to start their preparation and plan accordingly:

Ex Strata Manager Mr John Fry  
 Ex Strata Manager Mr Simon Wicks  
 Ex Strata Manager Mr Gary Webb  
 Solicitor Mr Adrian Mueller  
 Chairperson Mr Bruce Copland  
 Treasurer Mr John Ward  
 Secretary Ms Maureen McDonald  
 Member of the EC Ms Elizabeth Saulits  
 Member of the EC Mr Moses Levitt  
 Member of the EC Mr Stan Pogorelski  
 Member of the EC Mr Jeffery Wong  
 Member of the EC Ms Sandy Quick  
 Ex long-serving member of the EC Mr Upali Aranwela  
 Ex long-serving member of the EC Mr Gerald Raichman  
 Owner of Lots 136 and 137 Mr Timothy Kemsley  
 Owners of Lot 3 Mrs and Mr Zelenzok

If any of them has anything smart to say to me, they know where I am. I have always been very straight-forward and approachable. The only thing I do not allow or condone is playing dirty games and mismanaging my own hard-earned money or the money of honest and often quiet people I respect and fight for.

No reply was ever received from Mr.peter Bone.

65. SP52948-Lot-158-summons-for-strata-manager-Peter-Bone-to-produce-documents-in-CTTT-case-SCS-12/32675-including-evidence-for-engagement-of-Solicitor-Adrian-Mueller-on-25Feb2013-with-updated-version-27Feb2013. Extract from the nine-page summonses:



**Summons by SP52948 Lot 158 to Peter Bone to provide responses and evidence**  
**CTTT File SCS 12/32675**  
**27 February 2013**

1. Provide documentary evidence of water and gas reimbursements for some townhouse owners between the AGM 1999 (29 September 1999) and AGM 2012 (17 October 2012) which were paid without the Special By-Law or a resolution at any general meeting.

2. Provide errata and amendments for minutes of the AGM 2012, as per document issued to the Strata Manager on 30 January 2013.

3. The minutes of the EC meeting held on 22 February 2012 documented that the Strata Manager was instructed to seek a costs proposal from a strata lawyer.

Provide documentary evidence of why it took five months to obtain the Solicitor's Standard Cost Agreement.

4. Provide evidence of the payments by SP52948 for the Solicitor J.S. Mueller & Co invoices in the period between 22 February 2012 and 1 March 2013.

5. Provide copies of the invoices that the Solicitor J.S. Mueller & Co issued to Strata Plan 52948 in the period between 22 February 2012 and 1 March 2013.

6. Provide evidence that the Executive Committee discussed my request (with seven proxies vested in me) to avoid incurring legal costs that I submitted on 2 March 2012, and your reasons to reject my proposal.

7. Provide documentary evidence that the Executive Committee received approval for engaging the Solicitor J.S. Mueller & Co by owners vote at a general meeting.

8. Provide documentary evidence that the Executive Committee reached the decision to engage the Solicitor J.S. Mueller & Co after they had provided the Standard Cost Agreement on 16 July 2012 (not beforehand).

9. As per minutes of the EC meeting held on 22 August 2012 the costs of the Solicitor were scheduled to be discussed and tabled at AGM 2012, including the budget to approve any future engagement.

Provide documentary evidence that all owners in SP52948 received full details of the Solicitor's costs in period 22 February 2012 and 1 March 2013.

10. The private EC meeting on 9 July 2012 "decided" to engage the Solicitor Mr Adrian Mueller. This was documented in the minutes of the official EC meeting on 22 August 2012.

Provide the minutes of the EC meeting held on 9 July 2012.

11. Provide documentary evidence of reasons why the Strata Manager prevented my Motion to improve mediation processes in the complex to be listed in the agenda for AGM 2012.

12. Provide documentary evidence who, and with what legal rights, approved the Strata Manager to continue using services of the Solicitor Mr Adrian Mueller after the AGM 2012 at owners corporation expense?

Page 1 of 9

Summonses were also submitted for Mr. Bruce Copland, Mr. John Ward, and Mrs. Maureen McDonald. None of them responded or offered assistance to CTTT.

66. For no valid reasons, CTTT refused to issue summonses two times without any valid reason or explanation, on 5 March 2013 and 29 April 2013:

**CONSUMER, TRADER & TENANCY TRIBUNAL**

158 / 1-15 Fontenoy Road  
MACQUARIE PARK NSW 2113

File No: SCS 12/32675  
(Quote in all enquiries)

**Application to the Tribunal concerning 1-15 Fontenoy Road MACQUARIE PARK NSW 2113 Australia - SP52948**

On the 5/3/13 the following procedural directions are made on the papers:

1. The applicant [redacted] is to file submissions on the question of costs in reply by 15 March 2013. No further extension will be granted by the Tribunal except in exceptional circumstances.

2. The application for the issue of summonses dated 27/2/13 at the request of the applicant [redacted] is refused.

3. The parties are to advise the dates on which they are unavailable for the hearing of the application in respect of costs.

3a. A hearing date for the application in respect of costs will be advised by the Tribunal in due course.

**D D' Mello**  
for the Registrar  
05/03/13

**CONSUMER, TRADER & TENANCY TRIBUNAL**

158 / 1-15 Fontenoy Road  
MACQUARIE PARK NSW 2113

File No: SCS 12/32675  
(Quote in all enquiries)

**Application to the Tribunal concerning 1-15 Fontenoy Road MACQUARIE PARK NSW 2113 Australia - SP52948**

Reference is made to your request to issue summons received on 26 April 2013.

On 29/4/13 the following directions were made on the papers:

The application to issue summonses requiring the attendance at the hearing of an application for costs is refused.

No relevant forensic purpose is demonstrated in the request and the issue of summons in the present circumstances is therefore oppressive.

**M Harrowell**  
Tribunal Member  
29/04/13

Please note: You will receive a refund of the summons fee in due course

Summonses on 26 April 2013 were submitted for Mr. Bruce Copland, Mr. John Ward, Mrs. Maureen McDonald, Mr. Stan Pogorelsky, Mr. Moses Levitt, and Mr. Peter Bone. None of them responded or offered assistance to CTTT.

Received with  
Summons  
adrian  
**COPY**

CTTT SCS 12/32675 Request to Issue a Summons

On 16<sup>th</sup> of April 2013 the Applicant sent an email (enclosed separately) to the Strata Manager Mr. Peter Bone to notify several members of the EC if they were prepared to attend the CTTT Hearing voluntarily. The Strata Manager never replied.

This is to confirm that the Applicant, [redacted] requests herewith to issue a summons for the following EC members and the Strata Manager of SP52948:

Mr. Bruce Copland  
Mr. John Ward  
Mr. Stan Pogorelsky  
Mr. Moses Levitt  
Mrs. Maureen McDonald  
Mr. Peter Bone

The Applicant's first request to issue a summons was rejected by the CTTT on 5<sup>th</sup> of April 2013 without any explanation.

There will be enough time to serve the summons in person at least five working days before the compliance date on 10<sup>th</sup> of May 2013 if there are no delays in processing this request at the CTTT.

Date: 26<sup>th</sup> of April 2013

67. Throughout February 2013, Solicitor Adrian Mueller was actively engaged in preventing access to strata documents, protecting own interests, exhibiting contempt of court (CTTT) in deliberate exercise with intent to interfere with the administration of justice [SP52948-Solicitor-Adrian-Mueller-secret-involvement-in-preventing-access-to-strata-documents-without-owner-corporation-approval-extract-from-invoice-60252-dated-6Mar2013](#):

04/02/13	Perusing emails from [redacted] chairman and strata manager concerning [redacted] request to inspect privileged documents	\$44.00	\$4.40
04/02/13	Email to you providing advice on inspection of privileged documents by [redacted] and requirements of section 108 of Strata Schemes Management Act 1996	\$88.00	\$8.80
14/02/13	Perusing email from [redacted] pressing request to inspect privileged records of owners corporation	\$44.00	\$4.40
14/02/13	Perusing and responding to email from strata manager requesting further advice concerning [redacted] request to inspect privileged records of owners corporation	\$44.00	\$4.40

Full access to SP52948 strata files was denied by BCS Strata Management and Solicitor Adrian Mueller on 5 and 8 March 2013.

68. Timeline of events for anonymous death threat in 2013:

- On 24 February 2013 at 19:45 hours, Lot 158 sent email to strata manager Peter Bone with the subject line "ADVANCED NOTICE: Peter Bone will be issued with CTTT summons to produce documents on 25 February 2013": [SP52948-advance-notice-to-strata-manager-Peter-Bone-about-CTTT-summonses-24Feb2013](#)
- Lot 158 submitted summonses on 25 February 2013 to CTTT, with updated version on 27 February 2013 (CTTT requested the changes to the document): [SP52948-Lot-158-summons-for-strata-manager-Peter-Bone-to-produce-documents-in-CTTT-case-SCS-12-32675-including-evidence-for-engagement-of-Solicitor-Adrian-Mueller-on-25Feb2013-with-updated-version-on-27Feb2013](#)
- Day after notice of issue of summonses to strata manager Peter Bone, there was an anonymous phone call to Lot 158 on 26 February 2013 (male voice) with clear instruction to stop CTTT cases or risk own life, with suggestion to disappear from complex. Previous threat "urging" Lot 158 to disappear from complex was reported to Police (and ignored by them) in Event E45617744 on 6 October 2011: [SP52948-anonymous-letterbox-message-for-Lot-158-6Oct2011](#):

Stop sending out your incorrect and damaging rubbish, you and your actions are causing a decrease in the value of my property. Any possible new owner reading the Strata records would be concerned by your silly actions which are all unfounded.

The CTTT does not support one of your claims and has fully supported the committee.

Let the committee get on with their job, I have full faith in them and their processes. I thank them for their hard work.

Find some other cause to invest your time in and drive them nuts, I don't appreciate your incorrect rubbish mail.

GO AWAY!

Another phone threat in 2012 was dismissed by Lot 158 as just another silly prank or baseless effort to stop them from investigating SP52948 problems.

- Evidence that Solicitor Adrian Mueller knew about summonses for strata manager Peter Bone and was actively involved on 26 February 2013: [SP52948-Solicitor-Adrian-Mueller-secret-involvement-in-preventing-issue-of-summonses-without-owner-corporation-approval-extract-from-invoice-60252-dated-6Mar2013.webp](#):

22/02/13	Perusing email from [redacted] requesting information about office bearers and water and gas rebates	\$44.00	\$4.40
22/02/13	Email to you providing advice on [redacted] request for information about office bearers and water and gas rebates	\$44.00	\$4.40
26/02/13	Perusing email from strata manager advising of application by [redacted] to issue summons for production of documents	\$44.00	\$4.40
26/02/13	Email to strata manager providing advice in relation to summons for production	\$44.00	\$4.40
27/02/13	Perusing notice from Tribunal advising of extensions made to timetable	\$44.00	\$4.40
06/03/13	Perusing notice from Tribunal advising of amended directions in costs application and refusal to issue summons at request of [redacted]	\$44.00	\$4.40

Previous death threat (as usual, done via anonymous phone call). None of the below listed parties took the complaints seriously:

- Waratah Strata Management and committee members stayed silent about attacks against Lot 158, including discrimination on religious basis (owners of Lot 147 Mr. and Mrs. Levitt called Lot 158 "non-believers" on number of occasions), on 17 May 2017
- Submission to CTTT in case SCS 12/32675 on 14 March 2013). CTTT failed to respond or take serious actions to investigate
- Hon. Anthony Roberts, Minister for Fair Trading NSW (reference FTMIN13/561) promised to investigate Lot 158 claims on 22 March 2013 (Tribunal member Mak Harrowell failed to comply with Minister's efforts)
- Bamfield auditors were questioned about false accounting data for legal costs on 11 November 2013 (with warning about lack of their action causing potential harm to Lot 158). Bamfield never responded in spite of obvious false accounting practices
- Submission to CTTT in case 13/50737 with complaint about CTTT bias, including Tribunal member Thode ignoring death threat against Lot 158 at Directions Hearing on 15 November 2013 (it was attended by unfinancial committee member Mr. Moses Levitt, who later himself got involved in multiple attempts of intimidation, discrimination, and ridicule of Lot 158). CTTT failed to respond or take serious actions to investigate
- Police Event E65804633 (Solicitor Adrian Mueller withheld crucial information from Police and failed to assist the investigations) (Police then lost other evidence and withheld that information from Lot 158, who has copies of missing files)
- Hon Matthew Kean MP, Minister for Innovation and Better Regulation NSW (reference MIN18/919) promised to investigate Lot 158 on 22 September 2017 through referral by MP Victor Dominello

69. [Lot 158's submission to Office of the Hon. Anthony Roberts, Minister for Fair Trading, about Community Title Laws and anonymous death threat in relation to CTTT cases SCS 12/32675 an SCS 12/50460, which Minister's office promised to investigate on 22 March 2013:](#)

**Subject:** RE: Update on the Strata and Community Title Law Review  
**From:** Email Acknowledgment  
**Date:** 22/3/13, 5:15 pm  
**To:** [REDACTED]

Thank you for contacting the Office of the Hon. Anthony Roberts,  
Minister for Fair Trading

Your correspondence has been received and will be addressed as soon as possible.

Yours sincerely

Office of the Minister for Fair Trading  
Minister for Fair Trading

Email: [office@roberts.minister.nsw.gov.au](mailto:office@roberts.minister.nsw.gov.au) NSW  
Tel: 02 9228 5276  
Fax: 02 9228 4236  
Level 36, 1 Farrer Place, Sydney NSW 2000

70. BCS Strata Management forged figures for legal costs and insurance claims in official six-monthly financial report for period from 1 September 2012 to 28 February 2013 for SP52948 stating that only \$1,316.19 was received in insurance claims and legal fees were \$200.00 when one single invoice for Solicitor Adrian Mueller amounted to \$12,672.00 (plus GST) in his invoice on 15 November 2012 (cheque drawn and presented on 27 November 2012), confirmed by extract from BCS Strata Management website in March 2013.

On 23 April 2013, BCS Strata Management, under pressure from Lot 158 and Lot 98, modified the six-monthly financial report stating that \$14,030.84 was received in insurance claims and legal fees were \$12,914.65:

4<sup>th</sup> of March 2013, status of financial documents at BCS Strata Community website for SP52948. Note the six-monthly financial statement Document ID 5200006, written by Strata Manager Mr. Peter Bone (he was removed from managing SP52948 later with unsatisfactory performance).

Itemid	PlanNo	PlanNameAdd	Category	Title	DocDate
5200006	NS2948	1-15 FONTENAY ROAD MACQUARIE PARK NSW	Financials	Six mthly accounts	9/04/2013
4464244	NS2948	1-15 FONTENAY ROAD MACQUARIE PARK NSW	Financials	Jan 03 to Dec 04	2/11/2012
4464255	NS2948	1-15 FONTENAY ROAD MACQUARIE PARK NSW	Financials	Period Ending 08/08	2/11/2012
4464258	NS2948	1-15 FONTENAY ROAD MACQUARIE PARK NSW	Financials	YE 06/07	2/11/2012
4464301	NS2948	1-15 FONTENAY ROAD MACQUARIE PARK NSW	Financials	Receipts journal 08/07 to 08/08	2/11/2012
4464305	NS2948	1-15 FONTENAY ROAD MACQUARIE PARK NSW	Financials	YE 06/09	2/11/2012
4464309	NS2948	1-15 FONTENAY ROAD MACQUARIE PARK NSW	Financials	Abdrd Fin Pos 08/10	2/11/2012
4464318	NS2948	1-15 FONTENAY ROAD MACQUARIE PARK NSW	Financials	Bamfield & Co 09/11	2/11/2012
4464323	NS2948	1-15 FONTENAY ROAD MACQUARIE PARK NSW	Financials	2010	2/11/2012
4464329	NS2948	1-15 FONTENAY ROAD MACQUARIE PARK NSW	Financials	09/08 to 02/09	2/11/2012

It hid secret legal expenses, which were paid to Solicitor Mr. Adrian Mueller without owners corporation knowledge or approval:

**LESS: EXPENDITURE:**

Audit Fees	480.00
Bank Charges	151.83
Cleaning Products	11,042.01
Maintenance - Garden Items	486.60
Maintenance - Carpet Cleaning	80.00
Electricity	42,759.58
Maintenance - Fire Services	5,755.90
Gardening and Lawns	23,878.26
Gas and Oil	10,742.56
Insurance Premiums	77,345.85
Key Deposits Refund	200.00
Legal & Debt Recovery Fees	200.00

Upon complaints from several owners who had more knowledge of the issue, Strata Manager Mr. Peter Bone issued an amended version of the document on 23<sup>rd</sup> of March 2013:

**LESS: EXPENDITURE:**

Audit Fees	480.00
Bank Charges	151.83
Cleaning Products	1,454.86
Maintenance - Garden Items	486.60
Maintenance - Carpet Cleaning	80.00
Electricity	42,759.58
Maintenance - Fire Services	5,755.90
Gardening and Lawns	23,878.26
Gas and Oil	10,742.56
Insurance Premiums	77,345.85
Key Deposits Refund	200.00
Legal & Debt Recovery Fees	12,914.65

In October just before AGM 2013, BCS Strata Management decided to hide the accurate state of the legal fees and insurance claims again:

BCS Strata Management manipulating accounting figures and then destroyed official document before AGM 2013:



20<sup>th</sup> of August 2013, status of financial documents at BCS Strata Community website for SP52948. Note the amended six-monthly report Document ID 5304628 was available.

ItemId	PlanNo	PlanNameAdd	Category	Title	DocDate
5304628	NS2948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	SIX MONTHLY AMENDED	30/04/2013
5200006	NS2948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Six mthly accounts	9/04/2013
4464244	NS2948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Jan 03 to Dec 04	2/11/2012
4464255	NS2948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Period Ending 08/08	2/11/2012
4464258	NS2948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	YE 08/07	2/11/2012
4464301	NS2948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Receipts journal 08/07 to 08/08	2/11/2012
4464305	NS2948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	YE 08/09	2/11/2012
4464309	NS2948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Abrdg Fin Pos 08/10	2/11/2012
4464318	NS2948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Bamfield & Co 09/11	2/11/2012
4464323	NS2948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	2010	2/11/2012

Just before the Annual General Meeting in October 2013, Raine & Horne Strata Sydney BCS removed the amended financials again to ensure success of the meeting in their favour Document ID 5304628 disappeared forever.

ItemId	PlanNo	PlanNameAdd	Category	Title	DocDate
6306911	NS2948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Bamfield & Co audit report 2013	10/10/2013
6306912	NS2948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Bamfield & Co audit report 2013	10/10/2013
5200006	NS2948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Six mthly accounts	9/04/2013
4464244	NS2948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Jan 03 to Dec 04	2/11/2012
4464255	NS2948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Period Ending 08/08	2/11/2012
4464258	NS2948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	YE 08/07	2/11/2012
4464301	NS2948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Receipts journal 08/07 to 08/08	2/11/2012
4464305	NS2948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	YE 08/09	2/11/2012
4464309	NS2948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Abrdg Fin Pos 08/10	2/11/2012
4464318	NS2948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Bamfield & Co 09/11	2/11/2012

71. In parallel with CTTT case SCS 12/32675, Lot 158 opened another case for fraudulent conduct of general meeting on 17 October 2012 (SCS 12/50460), which had to go to Fair Trading NSW for free mediation as first step.

Email correspondence between committee members and BCS Strata Management confirmed that they had no understanding of Fair Trading NSW case SM12/1537JR (precursor to CTTT case SCS 12/50460) and CTTT case SCS 12/32675:

From: Bruce Copland [mailto: ]  
Sent: Tuesday, 26 March 2013 10:55 AM  
To: 'PeterB@bcms.com.au'; 'zellev@ '; 'esaulits@ '  
'jeffrey@ '; WARD, John; 'mcdonald151@ '; 'hirsch25@ '  
'pogo@ '  
Subject: Re: SP 52948 - Mediation

Dear all

My recommendation is that we do vote clearly against paying for any copies of documentation.

Secondly that we vote against mediation as the chances of reaching an agreement are very slim and it is almost impossible to consider that we would terminate the services of our managing agent or agree to anything [redacted] wants in the absence of a General meeting in any case.

Please be aware that your vote may not be protected by legal privilege although I will as the strata manager to keep it private on that basis as the dispute with [redacted] is ongoing and he should not have access to anything other than the bare decision to proceed or not proceed to mediation.

I apologise for delay in advising of my view.

Bruce

Regards,

Bruce

Bruce Copland

From: WARD, John [mailto:wardj@bcms.com.au]  
Sent: Wednesday, 27 March 2013 1:09 PM  
To: WARD, John; Bruce Copland; Peter Bone; 'zellev@bcms.com.au'; 'esaulits@bcms.com.au'; 'jeffrey@bcms.com.au'; 'mcdonald151@bcms.com.au'; 'hirsch25@bcms.com.au'; 'pogo@bcms.com.au';  
Subject: RE: SP 52948 - Mediation

Dear all,

Please find my updated vote, I misunderstood the form.

I am against both motions.

New form attached.

Cheers

JW

John G Ward

49/1-15 Fontenoy Road North Ryde 2113

72. On 28 March 2013 SP52948 committee members voted at paper EC meeting not to engage Solicitor Adrian Mueller in CTTT Hearing scheduled for 15 April 2013:

**Raine & Horne Strata - Sydney**  
Level 2, 51 Rawson Street Epping  
Locked Bag 22, Haymarket NSW 1238  
**Telephone** 02 9668 2999  
**Fax** 02 8216 0331  
**Email** strata@bcms.com.au  
**Web** www.bcms.com.au

**MINUTES OF A PAPER EXECUTIVE COMMITTEE MEETING OF STRATA SCHEME NO. 52948 HELD IN THE OFFICES OF RAINE & HORNE STRATA-SYDNEY, LEVEL 2, 51 RAWSON STREET, EPPING HELD ON 28<sup>TH</sup> MARCH 2013 at 10.00 am.**

VOTING PAPERS WERE RECEIVED FROM:

E Saulits  
J Ward  
S Quick  
M Levitt  
M McDonald  
S Pogorelsky

**MOTION 1** That the minutes of the last Committee Meeting be confirmed.  
**Carried**

**MOTION 2** That the Owners Corporation agree to appoint a representative/s to represent the Owners Corporation and attend Mediation at the Consumer, Trader & Tenancy Tribunal (CTTT) on 15<sup>TH</sup> April 2013, in relation to an application lodged by the owner of Lot 158, i  
**Defeated**

Of nine member sof the committee, six allegedly vote and two of them were unfinancial to be committee members or vote: Mr Stan Pogorelsky (lot 181) and Mr. Moses Levitt (Lot 147).

The Motion said:

*That the Owners Corporation agree to appoint a representative/s to represent the Owners Corporation and attend Mediation at the Consumer, Trader & Tenancy Tribunal (CTTT) on 15 April 2013, in relation to an application lodged by the owner of Lot 158, Mr Lot 158. Defeated*

73. On 15 April 2013 Hearing on CTTT case SCS 12/32675 was conducted.

Lot 158 questioned legal right for Solicitor Adrian Mueller to represent SP52948, noting that his Standard Costs Agreement provided to CTTT on 29 January 2013 did not have signature on behalf of owners corporation and that minutes of committee meeting dated 28 March 2013 did not approve Solicitor's engagement.

Solicitor Adrian Mueller then asked for break to speak to strata manager Mr. Peter Bone and when he came back, he provided statement to Tribunal.


Solicitor Adrian Mueller said words to the effect of (Lot 158 has audio recording of the event):

*What I wish to do is... continue with the Hearing today on proviso that I am able to tender some evidence on this issue. Evidence which I've only discovered... Material...*

*There's two documents: Second document is email from the Strata manager to me on 6th of August 2012 returning the signed copy of my costs agreement... and the costs agreement... signed by the strata manager on behalf of the owners corporation...*

*And I apply... to... tender of these documents today on the basis that I've only been informed of the challenge...*

He also persuaded the Tribunal member that the Motion at the EC meeting was accidentally mistaken for Fair Trading NSW mediation case SM12/1537JR although the Solicitor knew quite well that the mediation case was closed on 27 March 2013 (for the second time, as per Solicitor Adrian Mueller's continuous efforts to incur costs to owners corporation for personal gains - for public record - Solicitor Adrian Mueller was never approved by owners or the committee to work on CTTT case SCS 12/50460, as shown in a separate document covering that case):



**Mediation Services Unit**  
PO Box A805  
Sydney South NSW 1235  
Tel: 13 32 20 Fax: 02 9641 6565  
[www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)

158/1-15 Fontenoy Road  
MACQUARIE PARK NSW 2113

Phone: (02) 9641-6560  
[services.nsw.gov.au](mailto:services.nsw.gov.au)  
27 March, 2013

**Application for Mediation. SP: 52948. File No: SM12/1537JR**  
**1-15 Fontenoy Road MACQUARIE PARK**

I refer to your above application for mediation concerning issues relating to the management of the scheme including invalidation of meeting resolutions, compliance with a positive covenant, compliance with Special by-law 4 and actions of the strata managing agent.

In this application I note the following:

- This application was lodged on 20 December 2012. The applicant is Mr [redacted], owner of lot 158. The respondent is the owners corporation.
- Mediators Jim Robertson and Rebecca Gleeson contacted the parties to arrange a mediation session.
- The parties have currently deadlocked over the issue of the provision of documents by the applicant. The respondent requests the applicant provide them with documents referred to in the application so they can consider whether or not to attend mediation. The applicant advises he will provide those documents at a cost of \$2,590 to cover his costs. The respondent does not agree to pay those costs.

Under Section 128 of the Strata Schemes Management Act 1996, the Director-General of Fair Trading must arrange for mediation if the Director-General of Fair Trading thinks the circumstances of the case are appropriate.

Given the above situation in which the applicant and respondent have reached deadlock and cannot agree on the issue of the provision of documents mentioned in the application, it is considered the circumstances of this matter are not appropriate for mediation.

It is further noted that, for the purposes of the Act, an attempt has been made by the applicant and respondent to mediate.

74. At CTTT Hearing on 15 April 2013, Solicitor Adrian Mueller alleged that he did not receive any files from Lot 158, which were sent in folder to BCS Strata Management Peter Bone on 14 March 2013. Solicitor Adrian Mueller, whilst illegal to represent owners corporation, forced Lot 158 to submit another copy of files at additional unnecessary expense:

**Subject:** Re: OSP52948 -ats- [redacted] (CTTT File No. SCS 12/32675)  
**From:** Adrian Mueller  
**Date:** 15/4/13, 5:19 pm  
**To:** [redacted]

Dear [redacted]

The strata manager of the owners corporation has not instructed me that he has received the folder containing your evidence and submissions concerning the owners corporation's application for you to pay its costs of your CTTT appeal.

Therefore, please send me the folder containing your evidence and submissions by 18 April 2013 in accordance with Deputy Chairperson Harrowell's directions made today.

Yours Faithfully,  
**Adrian Mueller**  
Solicitor

75. Straight after CTTT Hearing on 15 April 2013, Solicitor Adrian Mueller sent urgent secret email to BCS Strata Management Mr. Paul Banoob, Mr. Peter Bone, and Chairperson of the committee Mr. Bruce Copland to produce documents related to his engagement in 2012 and requested that owners corporation organise urgent paper committee meeting to ratify his engagement (this secret email clearly confirmed that Solicitor Adrian Mueller had never received such documents before 15 April 2013):

From: Adrian Mueller [redacted]  
Sent: Monday, April 15, 2013 6:12 PM  
To: peter@bcms.com.au; Bruce Copland; paul.banoob@redacted  
Subject: Re: SP52948 - CTTT Appeal (22012)  
Importance: High

Dear All,

I attach letter reporting on today's CTTT hearing.

I need you to immediately do the following:

1. Confirm when Raine & Horne Strata Sydney received my letter dated 2 July 2012 advising that [redacted] had lodged an appeal against the adjudicator's decision.
2. Provide me with complete copies of the notice and minutes of the executive committee meetings held on 9 July 2012 and the next meeting held in August 2012.
3. Confirm that Gary Webb signed my costs agreement on 25 July 2012 on behalf of the owners corporation.
4. Convene another executive committee meeting to be held by this Friday, 19 April 2013 and to place on the agenda for and, if thought fit, pass the motions which appear towards the end of my attached letter (those motions may require amendment - you should consult with me before sending the meeting notice).

Regards

Adrian Mueller

Solicitor

76. In panic, members of the committee and BCS Strata Management Mr. Peter Bone received high-priority request to organise urgent paper meeting on 16 April 2013, forgetting that Fair Trading NSW mediation case SM12/1537JR was closed almost one month earlier on 27 March 2013 and could not be used as an exclude:

From: WARD, John [redacted]  
Sent: Tuesday, 16 April 2013 4:43 PM  
To: WARD, John; Bruce Copland; 'zellev@redacted'; 'esaulits@redacted'; 'jeffrey@redacted'; 'mcdonald151@redacted'; 'hirsch25@redacted'; 'pogo@redacted'  
Subject: [redacted]

Hi all,

Bruce has requested that I send this out to all to assist you with the voting papers sent out today by the strata manager.

Please assist by returning your voting papers ASAP to the Strata Manager to help the Solicitor progress this matter appropriately.

Any questions please contact me.

**Subject:** Paper Committee Meeting to be held on 26th April 2013

**From:** Bruce Copland

**Date:** 16/4/13, 9:38 pm

**To:** "WARD, John" <jward@redacted>, "zellev@redacted"

<esaulits@redacted>, "jeffrey@redacted"

<mcdonald151@redacted>, "hirsch25@redacted"

"pogo@redacted"

**CC:** "Peter Bone (PeterB@bcms.com.au)"

Dear All,

Please sign and date your voting paper as soon as possible. Despite the proposed date of the meeting we must have a clear majority as soon as possible to allow Adrian Mueller to rebut the allegations that he was never appointed to represent us at CTTT.

Please also not in whichever way that you wish that the decision in the minutes of the last paper meeting was defeating a motion to have someone represent us at a MEDIATION at DOFT and not a hearing at CTTT. This is a confusion caused by Peter mixing up the two issues in the notice.

I have attached a copy of my voting paper for your information and for Peter to record my vote.

Bruce

Extract from the transcript:

*Please sign and date your voting paper as soon as possible. Despite the proposed date of the meeting we must have a clear majority as soon as possible to allow Adrian Mueller to rebut the allegations that he was never appointed to*



represent us at CTTT.

Please also not in whichever way that you wish that the decision in the minutes of the last paper meeting was defeating a motion to have someone represent us at a MEDIATION at DOFT and not a hearing at CTTT. This is a confusion caused by Peter mixing up the two issues in the notice.

I have attached a copy of my voting paper for your information and for Peter to record my vote.

Bruce

77. Lot 98 (retired university lecturer) challenged BCS Strata Management about Solicitor Adrian Mueller engagement in CTTT cases SCS 12/32675 and SCS 12/50460 without general meetings and notices to owner on 17 April 2013:

To: Peter Bone <PeterB@bcms.com.au> @ 17/4/13, 16:52  
Subject: Strata Scheme : 52948 Proposed executive committee meeting on April 26.  
Send Later

To: RAINE & HORNE,  
STRATA MANAGER STRATA SCHEME 52948.

Peter,

I have just received notice, duly signed and dated on April 16th, 2013, of a forthcoming paper executive committee meeting to be held on April 26th, 2013.

1. One of the motions states that the executive committee held a meeting on July 9<sup>th</sup> 2012. Some details of what allegedly happened at that meeting are also given. Why did it take you more than nine months to let owners know about this? The minutes of that meeting, if it was ever held, should have been circulated within 7 days. I request that Raine & Horne, as strata managers let me know why they allowed this breach to occur.
2. The EC has no authority to engage the services of lawyers without the approval of a general meeting, and Bruce Copland knows this. In an email to me dated August 2<sup>nd</sup>, 2010 he specifically made this point. Could you please remind him and the other members of the EC of this, on my behalf.
3. More importantly, Raine & Horne as strata managers should have informed the EC, that the EC had no authority to engage the services of lawyers, at the meeting that was allegedly held on July 9<sup>th</sup> last year. Why did Raine & Horne not do this?
4. Consequently, any motion passed independently by the EC to ratify the appointment of JS Mueller & Co and any consequent action is null and void.

I am against any of the motions to be put at the proposed meeting and the EC does not have my support in this matter.

I reserve the right to take further action about this as I consider necessary.

Strata Manager Mr. Peter Bone ignored the owner and responded belatedly on 30 April 2013, well after the paper committee meeting:

**Subject:** RE: Strata Scheme : 52948 Proposed executive committee meeting on April 26.  
**From:** Peter Bone </O=PICA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=PETERBONE>  
**Date:** 30/4/13, 10:59 am  
**To:** 'MICHAEL' <[redacted]>

Good morning [redacted]

Thank you for your email. My apologies for the slow response to your e-mail, I am currently not as up-to-date as I would like to be.

There is legal action pending between the owners corporation and the owner of lot 158, [redacted].

The legal action concerns the matters which you raise.

It is therefore not appropriate for me to respond to your questions at this stage as I am sure you can understand.

78. At time-warped paper meeting on 19 April 2013 (scheduled for 26 April 2013 but completed seven days before the designated date), with notice sent to owners on 16 April 2013 and not allowing owners to act if they chose so). There was a reason why time-warped (illegal) meeting had to be organised - CTTT gave deadline to Solicitor Adrian Mueller to provide his evidence and responses by 19 April 2013. So, Solicitor Adrian Mueller was forced to make two steps: force the SP52948 to organise time-warped meeting to ratify his alleged engagement nine months after the event, and also force BCS Strata Management Mr. Peter Bone to submit his Statutory Declaration which was fully prepared by Solicitor himself.

In Motion 1 committee defeated proposal for Solicitor's representation at non-existent Fair Trading NSW mediation case dated 15 April 2013:

**MOTION 1** That the minutes of the last Committee Meeting be confirmed.

It was moved that Motion 2 of the Paper Executive Committee Meeting held on 28<sup>th</sup> March 2013 be amended from:

"That the Owners Corporation agree to appoint a representative/s to represent the Owners Corporation and attend Mediation at the Consumer, Trader & Tenancy Tribunal (CTTT) on 15<sup>th</sup> April 2013, in relation to an application lodged by the owner of Lot 158, [redacted]."

**Defeated"**

to read:

"That the Owners Corporation agree to appoint a representative/s to represent the Owners Corporation and attend Mediation at the Office of Fair Trading (OFT) on 15<sup>th</sup> April 2013, in relation to an application lodged by the owner of Lot 158, [redacted]."

**Defeated"**

**Resolved** that proposed amendment to Motion 2 be approved.

**Resolved** that the Minutes of the Paper Committee Meeting held on 28<sup>th</sup> March 2013, as amended, be approved.

Misconstrued Motion suggested, on the balance of probabilities, that it meant Solicitor Adrian Mueller was not allowed to be engaged in Fair Trading NSW case SM12/1537JR although the case was already closed on 27 March 2013.

79. Lot 158 delivered folder with files to Solicitor Adrian Mueller in person on 18 April 2013 and forced him to sign the document:

Applicant's Document Delivery to the Solicitor – Signsheet

CTTT File SCS 12/32675

As Per Orders at Re-Hearing on 15<sup>th</sup> of April 2013

By signing this form, the following has been acknowledged by Mr. Adrian Mueller, or an authorised representative of his firm:

a) Mr. Adrian Mueller confirms that the Strata Manager of SP52948 (Raine & Horne Epping) lost the folder that the Applicant had sent to them on 14<sup>th</sup> of March 2013;

b) Mr. Adrian Mueller confirms that he and the Respondent did not raise any complaints to the CTTT or the Applicant about not receiving the Applicant's documents after the deadline on 15<sup>th</sup> of March 2013;

c) Mr. Adrian Mueller refused offer to obtain access to the Applicant's folder at the CTTT Re-Hearing on 15<sup>th</sup> of April 2013, via the following two methods:

- \* Electronic delivery
- \* Document search at the CTTT

The latter method was forced upon the Applicant on 27<sup>th</sup> of February 2013, after three complaints to the CTTT that he did not get copies of the Respondent's files.

d) Mr. Adrian Mueller acknowledges the cost of preparing another folder for the Respondent on 18<sup>th</sup> of April 2013 will amount to around \$700.00 to the Applicant.

e) Mr. Adrian Mueller acknowledges that, if the evidence in the Appendix herewith which he committed to provide to the CTTT and the Applicant by next Monday is not delivered (as per the Appendix herewith), the UNNECESSARY and UNJUSTIFIED cost of the preparation and delivery of the Respondent's folder shall be charged to his firm.

Received the Applicant's folder with 36 sleeves at:  
J.S.Mueller & Co.  
1st Floor, 240 Princes Highway  
Arncliffe NSW 2205

Signed by:

Date: 18<sup>th</sup> of March 2012

*I Adrian Mueller have sighted this document this 18<sup>th</sup> day of April 2013.*  
*Attila*

Appendix

The Strata Manager and Mr Adrian Mueller gave assurance to the CTTT and the Respondent at the CTTT Re-Hearing on 15<sup>th</sup> of April 2013 to provide evidence about legality of the engagement of the legal services by the Strata Plan 52948 in SCS 12/32675 (and 12/50460 later on). The following evidence and copies of the documents are required:

- \* Agenda for the alleged EC meeting held on 9<sup>th</sup> of July 2012 and the proof that it was sent to all owners in the complex at least 72 hours before the meeting;
- \* Minutes of this EC meeting held on 9<sup>th</sup> of July 2012 and the proof that they were distributed to all owners in the complex within 7 days after the meeting;
- \* Proof that owners were asked to vote for Solicitor's engagement at a general meeting (both the agenda and the minutes) once the costs or estimates went above \$12,500.00 (pretty much it had to happen in July 2012 or soon afterwards because apart from the Cost Agreement on 16<sup>th</sup> of July 2012 there was also expense of around \$2,500.00 beforehand);
- \* Agenda for the EC meeting at which it was approved to extend engagement of the Solicitor (that was actually done by private actions of Bruce Copland and the Strata Manager on 7<sup>th</sup> of December 2012) and the proof that it was distributed to all owners in the complex at least 72 hours before the meeting;
- \* Minutes of the EC meeting at which it was approved the extended engagement of the Solicitor on 7<sup>th</sup> of December 2012 and the proof that they were distributed to all owners in the complex within 7 days after the meeting;
- \* Evidence that owners received Tribunal orders on 17<sup>th</sup> of December 2012 about the reopened case SCS 12/32675 and this Hearing at any time before the vague, ill-conceived paper EC meeting held on 28<sup>th</sup> of March 2012;
- \* Proof that the owners received information about the names of the EC office bearers (Secretary, Treasurer, Chairperson) since the AGM 2012 (17<sup>th</sup> of October 2012). No minutes of any meeting since then provided such information. That was requested from the Strata Manager FIVE TIMES and not responded so far. Not having the office bearers means SStrata Plan 52948 has a dysfunctional EC.
- \* Proof that the owners know about the size of the Solicitor's expenses so far (not via the new web access that is still unknown to most owners, but via any minutes of the EC meetings). Last week the Applicant issued the request to the Strata Manager and the Secretary (unknown person so far) to explain where are the legal costs hiding in the balance sheet for period 1 September 2012 and 28<sup>th</sup> of February 2013.
- \* Proof that owners were sent a copy of the Solicitor's Cost Agreement within 7 days after its delivery to the Strata Agency and the EC on 16<sup>th</sup> of July 2012.

Signed by:

Date: 18<sup>th</sup> of March 2012

Extract from transcript:

*By signing this form, the following has been acknowledged by Mr. Adrian Mueller, or an authorised representative of his firm:*

- a) Mr. Adrian Mueller confirms that the Strata Manager of SP52948 (Raine & Horne Epping) lost the folder that the Applicant had sent to them on 14th of March 2013;*
- b) Mr. Adrian Mueller confirms that he and the Respondent did not raise any complaints to the CTTT or the Applicant about not receiving the Applicant's documents after the deadline on 15th of March 2013;*
- c) Mr. Adrian Mueller refused offer to obtain access to the Applicant's folder at the CTTT Re-Hearing on 15th of April 2013, via the following two methods:*

*Electronic delivery*

*Document search at the CTTT The latter method was forced upon the Applicant on 27th of February 2013i, after three complaints to the CTTT that he did not get copies of the Respondent's files.*

*d) Mr. Adrian Mueller acknowledges the cost of preparing another folder for the Respondent on 18th of April 2013 will amount to iaround \$700.00 to the Applicant.*

*e) Mr. Adrian Mueller acknowledges that, if the evidence in the Appendix herewith which he committed to provide to the CTTT and the Applicant by next Monday is not delivered (as per the Appendix herewith), the UNNECESSARY and UNJUSTIFIED cost of the preparation and delivery of the Respondent's folder shall be charged to his firm.*

*Received the Applicant's folder with 36 sleeves at:*

*J.S.Mueller & Co.*

*1st Floor, 240 Princes Highway*

*Arncliffe NSW 2205*

*Appendix*

*The Strata Manager and Mr Adrian Mueller gave assurance to the CTTT and the Respondent at the CTTT Re-Hearing on*

15th of April 2013 to provide evidence about legality of the engagement of the legal services by the Strata Plan 52948 in SCS 12/32675 (and 12/50460 later on). The following evidence and copies of the documents are required:

\* Agenda for the alleged meeting held on 9th of July 2012 and the proof that it was sent to all owners in the complex at least 72 hours before the meeting;

Minutes of this EC meeting held on 9th of July 2012 and the proof that they were distributed to all owners in the complex within 7 days after the meeting;

\* Proof that owners were asked to vote for Solicitor's engagement at a general meeting (both the agenda and the minutes) once the costs or estimates went above \$12,500.00 (pretty much it had to happen in July 2012 or soon afterwards because apart from the Cost Agreement on 16th of July 2012 there was also expense of around \$2,500.00 beforehand);

\* Agenda for the EC meeting at which it was approved to extend engagement of the Solicitor (it was actually done by private actions of Bruce Copland and the Strata Manager on 7th of December 2012) and the proof that it was distributed to all owners in the complex at least 72 hours before the meeting;

\* Minutes of the EC meeting at which it was approved the extended engagement of the Solicitor on 7th of December 2012 and the proof that they were distributed to all owners in the complex within 7 days after the meeting;

\* Evidence that owners received Tribunal orders on 17th of December 2012 about the reopened case SCS 12/32675 and this Hearing at any time before the vague, ill-conceived paper EC meeting held on 28th of March 2012;

\* Proof that the owners received information about the names of the EC office bearers (Secretary, Treasurer, Chairperson) since the AGM 2012 (17th of October 2012). No minutes of any meeting since then provided such information. That was requested from the Strata Manager FIVE TIMES and not responded so far. Not having office bearers means Strata Plan 52948 has a dysfunctional EC.

\* Proof that the owners know about the size of the Solicitor's expenses so far (not via the new web access that is still unknown to most owners, but via minutes of the EC meetings). Last week the Applicant issued the request to the Strata Manager and the Secretary (unknown person so far!) to explain where are the legal costs hiding in the balance sheet for period 1st of September 2012 and 28th of February 2013.

\* Proof that owners were sent a copy of the Solicitor's Cost Agreement within 7 days after its delivery to the Strata Agency and the EC on 16th of July 2012.

80. Solicitor Adrian Mueller solely prepared Statutory Declaration for BCS Strata Management Peter Bone 19 April 2013 and secretly charged owners for such "services".


Page 1 of his 73-pages signed Statutory Declaration:

**Statutory Declaration**  
OATHS ACT 1900, NSW, EIGHTH SCHEDULE

---

I, Peter Bone, of Level 2, 51 Rawson Street, Epping in the State of New South Wales, Strata Managing Agent, do hereby solemnly and sincerely declare that:

1. I am employed by Body Corporate Management Services Pty Limited trading as Raine & Horne Strata - Sydney which is the strata managing agent of the respondent, The Owners – Strata Plan No. 52948 ("owners corporation").
2. I am the person at Raine & Horne Strata - Sydney presently responsible for the day to day strata title management of the owners corporation. Annexed hereto and marked "A" is a copy of the current strata management agreement between the owners corporation and Raine & Horne Strata – Sydney dated 26 May 1999.
3. Annexed hereto and marked "B" are copies of:
  - (a) an email from Adrian Mueller of J S Mueller & Co Solicitors to Paul Banooob (the branch manager of Raine & Horne Strata – Sydney) dated 5 July 2012 and a letter from JS Mueller & Co Solicitors to the owners corporation dated 2 July 2012 attached to that email;
  - (b) an email from Paul Banooob to Gary Webb of Raine & Horne Strata - Sydney dated 5 July 2012;
  - (c) an email from Gary Webb to the members of the executive committee of the owners corporation dated 6 July 2012;
  - (d) an email from the chairperson of the executive committee, Bruce Copland, to Gary Webb and the members of the executive committee dated 6 July 2012; and
  - (e) an email from Bruce Copland to Gary Webb, Paul Banooob and members of the executive committee dated 9 July 2012.



81. Solicitor Adrian Mueller's own letter to CTTT on 19 April 2013.

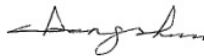
Page 1 of his letter:



**Statutory Declaration**  
OATHS ACT 1900, NSW, EIGHTH SCHEDULE

I, Peter Bone, of Level 2, 51 Rawson Street, Epping in the State of New South Wales, Strata Managing Agent, do hereby solemnly and sincerely declare that:

1. I am employed by Body Corporate Management Services Pty Limited trading as Raine & Horne Strata - Sydney which is the strata managing agent of the respondent, The Owners – Strata Plan No. 52948 ("owners corporation").
2. I am the person at Raine & Horne Strata - Sydney presently responsible for the day to day strata title management of the owners corporation. Annexed hereto and marked "A" is a copy of the current strata management agreement between the owners corporation and Raine & Horne Strata – Sydney dated 26 May 1999.
3. Annexed hereto and marked "B" are copies of:
  - (a) an email from Adrian Mueller of J S Mueller & Co Solicitors to Paul Banoob (the branch manager of Raine & Horne Strata – Sydney) dated 5 July 2012 and a letter from JS Mueller & Co Solicitors to the owners corporation dated 2 July 2012 attached to that email;
  - (b) an email from Paul Banoob to Gary Webb of Raine & Horne Strata - Sydney dated 5 July 2012;
  - (c) an email from Gary Webb to the members of the executive committee of the owners corporation dated 6 July 2012;
  - (d) an email from the chairperson of the executive committee, Bruce Copland, to Gary Webb and the members of the executive committee dated 6 July 2012; and
  - (e) an email from Bruce Copland to Gary Webb, Paul Banoob and members of the executive committee dated 9 July 2012.

82. \$851.56 was secretly spent on courier expenses for sending handful of files by Solicitor Adrian Mueller to CTTT on 19 April 2013 (one file is Solicitor's 4-page letter reference AM:DR:22012 dated 19 April 2013, and the other one is 73-page Statutory Declaration by strata manager Peter Bone, as fully prepared, written, and organised by Solicitor Adrian Mueller who charged owners corporation for the work):

Plan: **NSW 52948** 1-15 FONTENOY ROAD MACQUARIE P  
 Creditor Code: 1 BODY CORPORATE SERVICES  
 Document Ref.: 08090129 Document Total: 4717.86  
 Invoice Document:

Disbn Amount	Exp. Code	Expense Description	Raised By	Date Raised	Qty	Fund Ind	Batch Seq	Batch Date
851.56	COUR	Courier Service	Manual	19/04/2013	2	A	999	24/05/2013
85.16	GSTEX	GST Courier Service	Manual	19/04/2013	2	A	999	24/05/2013
2791.58	FEES	MGT FEE 18042013-17052013	Automatic	17/05/2013	0	A	999	24/05/2013
279.16	GSTEX	GST MGT FEE 18042013-17052013	Automatic	17/05/2013	0	A	999	24/05/2013
541.82	FIXDI	Bundled Disbursements	Manual	24/05/2013	1	A	999	24/05/2013
54.18	GSTEX	GST Bundled Disbursements	Manual	24/05/2013	1	A	999	24/05/2013
104.00	S109	S109 Fee-Paid by Applicant	Automatic	03/05/2013	1	A	999	24/05/2013
10.40	GSTEX	GST S109 Fee-Paid by Applicant	Automatic	03/05/2013	1	A	999	24/05/2013

Solicitor Adrian Mueller's invoice 61223 dated 10 May 2013 contains details of frantic actions to prepare Statutory Declaration:

15/04/13	Appearance at Tribunal for hearing of costs application (including one hour travel)	\$1,760.00	\$176.00
15/04/13	Letter to you reporting on hearing of costs application and advising on further evidence	\$88.00	\$8.80
15/04/13	Drawing motions for ratification of retainer	\$44.00	\$4.40
15/04/13	Drawing statutory declaration of strata manager to prove proper appointment of solicitor for appeal	\$132.00	\$13.20
15/04/13	Letter to CTTT advising of unavailable dates for May hearing	\$44.00	\$4.40
16/04/13	Perusing emails from strata manager answering queries and attaching notice and minutes of executive committee meeting August 2012	\$88.00	\$8.80
16/04/13	Perusing further email from strata manager attaching email trails passing between strata manager and executive committee members concerning CTTT appeal and appointment of solicitor to defend appeal	\$88.00	\$8.80
16/04/13	Perusing strata management agency agreement between Raine & Horne Strata and owners corporation to check for delegated powers of strata manager	\$88.00	\$8.80
18/04/13	Amending statutory declaration of Peter Bone to incorporate references to executive committee meetings recording events at CTTT appeal and task confirmation report confirming service on owners of notice of executive committee meeting scheduled for 26 April 2013 to ratify appointment of solicitor in CTTT appeal	\$308.00	\$30.80
18/04/13	Amending submission to CTTT concerning retainer of solicitor to incorporate references to cases concerning ratification	\$88.00	\$8.80
18/04/13	Email to strata manager attaching draft statutory declaration	\$44.00	\$4.40
19/04/13	Email to strata manager providing instructions for signing statutory declaration	\$44.00	\$4.40
19/04/13	Perusing email from strata manager with draft minutes of paper executive committee meeting attached concerning ratification of appointment of solicitor in CTTT appeal	\$44.00	\$4.40
19/04/13	Amending draft minutes of paper executive committee meeting ratifying appointment of solicitor in CTTT appeal and emailing to strata manager	\$44.00	\$4.40
19/04/13	Perusing email from Peter Bone requesting corrections to statutory declaration and finalising statutory declaration of Peter Bone to make corrections requested by Peter	\$132.00	\$13.20
19/04/13	Perusing signed statutory declaration of Peter Bone	\$44.00	\$4.40
16/04/13	Amending statutory declaration of Peter Bone to take into account additional information provided by strata manager	\$440.00	\$44.00
16/04/13	Revising motions for executive committee meeting to ratify appointment of solicitor in CTTT appeal based on additional information provided by strata manager and executive committee	\$220.00	\$22.00
16/04/13	Drafting submissions concerning appointment of solicitor in CTTT appeal	\$660.00	\$66.00

83. [SP52948-extract-from-strata-manager-Peter-Bone-submission-to-CTTT-in-Statutory-Declaration-19Apr2013](#) and version presented by Solicitor Adrian Mueller: [SP52948-extract-from-Solicitor-Adrian-Mueller-submission-to-CTTT-19Apr2013](#), and comparing them side-by-side:

3. On 5 July 2012 the owners corporation's lawyer (Adrian Mueller) emailed to its strata manager a letter estimating that he would charge "\$6,600 - \$12,100 to represent the owners corporation in the [CTTT] appeal".
4. On 6 July 2012 the letter containing the lawyer's costs estimate was emailed by the strata manager to the members of the executive committee of the owners corporation.

Liability limited by a scheme approved under Professional Standards Legislation

2

Submission on Lawyer's Retainer

19 April 2013

5. On 9 July 2012 the members of the executive committee held an emergency meeting at which it was "unanimously resolved to appoint Adrian Mueller to represent the owners corporation at the directions hearing and to enter into an appropriate costs agreement noting that this may incur costs up to \$12,000 [in the CTTT appeal]".
6. On 16 July 2012 the owners corporation's lawyer sent by email to the strata manager a costs agreement concerning the CTTT appeal with a cost disclosure estimating that the lawyer would charge the owners corporation \$11,550 to act in the CTTT appeal.
7. On 25 July 2012 the then strata manager of the owners corporation, Gary Webb, signed the lawyer's costs agreement on behalf of the owners corporation and the signed costs agreement was emailed to the lawyer by the strata manager on that day.
8. On 22 August 2012 the executive committee held its next meeting the minutes of which relevantly record the following: "As minutes on 9 July 2012, Mr Adrian Mueller of JS Mueller & Co had been engaged to represent the OC at the CTTT hearing held on 8 August 2012. is appealing against the decision by CTTT to dismiss his application for orders against the OC. The lawyer estimated the OC legal costs may reach \$12,000."
9. On 5 December 2012 and 20 February 2013 the executive committee next held meetings. At each meeting there was discussion concerning the CTTT appeal.
10. On 28 March 2013 the executive committee made a written decision not to elect a representative to attend a mediation requested by the appellant.
11. On 19 April 2013 the executive committee passed resolutions ratifying (to the extent necessary) the:
  - (a) the decision of the executive committee to appoint Mr Mueller as the owners corporation's lawyer in the CTTT appeal; and
  - (b) the decision of the strata manager to sign and accept Mr Mueller's costs agreement on behalf of the owners corporation.

3. Annexed hereto and marked "B" are copies of:
  - (a) an email from Adrian Mueller of JS Mueller & Co Solicitors to Paul Banoob (the branch manager of Raine & Horne Strata - Sydney) dated 5 July 2012 and a letter from JS Mueller & Co Solicitors to the owners corporation dated 2 July 2012 attached to that email;
  - (b) an email from Paul Banoob to Gary Webb of Raine & Horne Strata - Sydney dated 5 July 2012;
  - (c) an email from Gary Webb to the members of the executive committee of the owners corporation dated 6 July 2012;
  - (d) an email from the chairperson of the executive committee, Bruce Copland, to Gary Webb and the members of the executive committee dated 6 July 2012; and
  - (e) an email from Bruce Copland to Gary Webb, Paul Banoob and members of the executive committee dated 9 July 2012.
4. Annexed hereto and marked "C" is a copy of the minutes of an emergency meeting of the executive committee of the owners corporation held on 9 July 2012.
5. On 16 July 2012 I received by email from Adrian Mueller of JS Mueller & Co Solicitors a document headed "Standard Costs Agreement". Annexed hereto and marked "D" is a copy of Mr Mueller's email to me dated 16 July 2012 and a copy of the Standard Costs Agreement attached to that email also dated 16 July 2012.
6. On 25 July 2012 the Standard Costs Agreement was signed by Gary Webb on behalf of the owners corporation. I know Gary Webb personally. He is employed by Raine & Horne Strata - Sydney. Mr Webb was the person at Raine & Horne Strata Sydney who throughout July 2012 was the person responsible for the day to day strata title management of the owners corporation. I have seen Mr Webb sign documents previously and I recognise the signature on the costs agreement as his signature.
7. On 25 July 2012 I emailed to Adrian Mueller a copy of the Standard Costs Agreement signed by Gary Webb. Annexed hereto and marked "E" is a copy of my email to Mr Mueller dated 25 July 2012 and a copy of the Standard Costs Agreement signed by Gary Webb attached to my email.
8. On 22 August 2012 the executive committee of the owners corporation held a meeting which I attended. At the meeting there was discussion concerning the appeal lodged by in the Consumer, Trader and Tenancy Tribunal (File No. SCS 12/32675) ("CTTT appeal"). Annexed hereto and marked "F" is a copy of the notice and the minutes of that meeting. The discussion concerning the CTTT appeal is recorded in item 3(d) of the meeting minutes.

Of special importance is the discrepancy between paragraph 7 in Solicitor's document and paragraph 6 in Mr. Peter Bone's Statutory Declaration. Solicitor claimed that his Costs Agreement was signed by strata manager Mr. Gary Webb on 25 July 2012 and emailed to Adrian Mueller by the strata manager on that day, with subtle indication that it was Mr. Gary Webb who sent the email. On the other hand, Mr. Peter Bone claimed that he sent Standard Costs Agreement (which was allegedly signed by Mr. Gary Webb) to Solicitor Adrian Mueller on 25 July 2012, forgetting that Mr. Peter Bone was not strata manager for SP52948 until the committee meeting on 22 August 2012 and that he had no authority to do it a month earlier on 25 July 2012.

On 13 August 2012, BCS Strata Management Mr. Paul Banoob sent agenda for committee meeting:

## STRATA SCHEMES MANAGEMENT ACT 1996

To: The Executive Committee Members  
Strata Scheme No. 52948  
1-15 Fontenoy Road  
NORTH RYDE NSW 2113

NOTICE OF COMMITTEE MEETING FOR STRATA SCHEME No. 52948 TO BE HELD IN THE OFFICES OF RAINE & HORNE STRATA SYDNEY, LEVEL 1 BUILDING D 240 BEECROFT ROAD EPPING ON 22<sup>ND</sup> AUGUST 2012 at 7.30PM.

ITEMS

- ITEM 1 ✓ To record attendance, receive proxies and apologies.
- ITEM 2 That the minutes of the last Committee Meetings held on the 13th June and the 9<sup>th</sup> July 2012 be confirmed.
- ITEM 3 Matters arising from the last minutes:
- ✓ 1. Building D hot water tank – Refund cheque received. → AGM.
  - ✓ 2. Installation of footpath and lights to Lane Cove Road.
  - ✓ 3. Tree Pruning – excessive.
  - ✓ 4. Draft Survey.
  - ✓ 5. Water Saving quotes (Solar Sensor) – Completed
  - ✓ 6. Security
  - ✓ 7. Shock absorbing bollard – Installed
  - ✓ 8. Gym keys – resolved
  - ✓ 9. Appointment of a Solicitor to act on behalf of the Owners Corporation at the CTTT hearing.
- ITEM 4 To consider the financial position.
- ITEM 5 To receive a report from the caretaker.
- ITEM 6 To consider correspondence.
- ITEM 7 To consider and appoint a valuer to inspect the building for insurance replacement
- ITEM 8 To review the building consultants report
- ITEM 9 Reappointment of Raine & Horne Strata Sydney for a further year
- ITEM 10 Gas & water rebates
- ITEM 11 Appointment of a Sub- Committee to prepare a budget for the 2013 administrative and sinking fund *Sat - 14 Sept.*
- ITEM 12 To discuss the outcome of the CTTT hearing held on the 8<sup>th</sup> August 2012 *Not 16 Oct.*
- ITEM 13 General Business *17 Oct.*

DATE 13/12/12 SIGNATURE \_\_\_\_\_  
Paul N 45006 Members of the Strata Community Australia (NSW)

*Peter Bone - Ref. replaces Gary Webb.*

**Minutes of committee meeting on 22 August 2012 allegedly approved minutes of committee meeting held on 9 July 2012 without providing any details to owners:**

MINUTES OF EXECUTIVE COMMITTEE MEETING OF STRATA SCHEME NO. 52948, 1-15 FONTENOY ROAD NORTH RYDE HELD IN THE OFFICES OF RAINE & HORNE STRATA LEVEL 1 BLOCK D, 240 BEECROFT ROAD, EPPING ON 22<sup>ND</sup> AUGUST 2012 at 7.30PM.

Standard abbreviations used in these minutes are as follows: MA = Managing Agent, EC = Executive Committee, OC = Owners Corporation, CTTT = Consumer Tenancy and Trade Tribunal, AGM = Annual General Meeting.

- ITEM 1  
PRESENT B Copland, J Ward, S Pogorelsky, J Wang, J Hessink, M Levitt & S Quick
- APOLOGIES M McDonald, E Saulits
- IN ATTENDANCE P Banocb & P Bone from Raine & Horne Strata-Sydney  
Paul Banocb introduced Peter Bone as the manager from Raine & Horne Strata who will be responsible for day to day management due to Gary Webb being unable to continue for medical reasons. Peter may be contacted on 02 9868 2999.
- ITEM 2 To confirm the minutes of the last two meetings.  
The EC meeting held 13 June 2012 – Carried.  
The EC emergency meeting held 9 July 2012 – Carried.

Mr. Peter Bone was introduced as new strata manager, which proves that he had no rights or authority to represent or act on behalf of SP52948 at any date before 22 August 2012.

84. Solicitor Adrian Mueller coerced CTTT in case SCS 12/32675 to justify his appointment to represent owners corporation through false statement about receiving signed copy of Standard Costs Agreement. CTTT dismissed all Lot 158 evidence and accepted fraudulent and forged files prepared by Solicitor Adrian Mueller. CTTT decision on 6 November 2013:



CONSUMER, TRADER & TENANCY TRIBUNAL  
NOTICE OF ORDER

- 7 NOV 2013

The Secretary, Owners Corporation SP  
52948  
C/-Raine & Horne Strata Sydney  
Floor 1 Building D  
240 Beecroft Road  
EPPING NSW 2121

File No: SCS 12/32675  
(Quote in all enquiries)

Application to the Tribunal concerning 1-15 Fontenoy Road MACQUARIE  
PARK NSW 2113 Australia – SP52948

Please find enclosed reserved decision on costs in this matter.

1. The applicant pay to the respondent the respondent's costs of the appeal assessed in the sum of \$8,800.00 inclusive of GST, such sum payable immediately.

Please read this information carefully

- **Display of the Order:** Within 72 hours of receiving this order the owners corporation must put a copy on the scheme notice board, unless the order states otherwise or if the by-laws do not require the owners corporation to maintain a notice board. It must stay there for 14 days. If there is no notice board the owners corporation must give a copy to each person shown on the strata roll.
- **Your Rights of Appeal:** If you wish to appeal against a dismissal of an application by an Adjudicator, you must lodge an appeal to the Tribunal within 21 days of the date the order takes effect. The date the order takes effect will vary. See s210 of the Strata Schemes Management Act 1986 and s99 of the Community Land Management Act 1989. An Appeal from any other order must also be lodged within 21 days of the date the order takes effect, although if sufficient cause is shown, time may be extended to 90 days. Section 81 of the Consumer, Trader and Tenancy Tribunal Act 2001 may also apply.
- **An order of the Tribunal may be varied or revoked in certain limited circumstances.** Such application may only be made with the approval of the Registrar within 28 days. Orders made by an Adjudicator may be clarified or time extended.
- **The only right of appeal against an order of the Tribunal made at hearing is to the District Court on a point of law and must be made within 28 days from the date the order is made.** In certain circumstances this time may be extended.
- **Penalty for Non-Compliance:** If an order is not complied with an application may be made to the Tribunal to impose a penalty up to \$5,500.00.

More information: If you need more information your rights and responsibilities or Mediation enquiries please contact Fair Trading Information Centre on 13 32 20.

M Harrowell  
Tribunal Member  
06/11/13

The critical parts of CTTT decision are paragraph 17, 18, and 86:

16. This enabled the executive committee to make the decision to retain Mr Mueller without needing to refer the decision to a general meeting pursuant to section 80D of the *Strata Schemes Management Act 1996*. That is, the decision to appoint Mr Mueller was a decision that fell within the exemption contained in clause 15 of the *Strata Schemes Management Regulation 2010* and was capable of being made by either the executive committee or strata manager.
17. The minutes of the 9 July 2012 meeting refer to the appointment of Mr Mueller to represent the owners corporation "at the directions hearing". But it cannot be doubted that the object of the resolution was to authorise Mr Mueller's appointment to represent the owners corporation in the CTTT appeal. The resolution itself refers to the entry into an appropriate costs agreement that "may incur costs up to \$12,000". Plainly the resolution intended to appoint Mr Mueller for the entire CTTT appeal at a cost of up to \$12,000, not just for the purpose of appearing at a directions hearing for a \$12,000 cost.
18. Mr Mueller's appointment as the owners corporation's lawyer in the CTTT appeal was confirmed on 25 July 2012 when the strata manager of the owners corporation signed and returned to Mr Mueller a copy of his firm's costs agreement (which estimated that the costs for representing the owners corporation would be \$11,550).

... where in paragraphs 84 and 85 Solicitor Adrian Mueller's actions were dismissed as valid defence:

84. This case is referring to a ratification of the acts of agent. Clearly the first resolution (motion 2 in the notice of meeting of 26 April 2013) is not a motion to ratify the actions of an agent or subordinate authority. Rather, it is a motion to approve the actions of the Owner Corporation through the Executive Committee taken on 9 July 2012 which the Owners Corporation has conceded in this application was not validly passed.
85. In my opinion, insofar as motion 2 sought to ratify the appointment of the lawyers to act on behalf of the Owners Corporation it was ineffective to do so. An Executive Committee cannot, in my opinion, use principles of ratification to validate an invalid resolution which the Executive Committee attempted to pass some 9 months earlier.
86. However, there was a second motion (motion 3) which sought to ratify the acts of the strata managing agent (being the actions of Mr Web in signing the costs agreement and the actions of Mr Bone in sending the cost agreement to the lawyer) in entering the costs agreement on behalf of the Owners Corporation with the lawyer.
87. For the reasons indicated above, in my view ratification was unnecessary. However, if I am incorrect in the view expressed above, in my view the resolution of the Executive Committee past 26 April 2013 would constitute a ratification of the acts of its appointed strata managing agent. The actions are "clear adoptive acts" by the Executive Committee which had power (if a valid resolution had been passed July 2012) to enter into the cost agreement with the lawyer without the need for a resolution passed by the Owners Corporation in general meeting.

85. BCS Strata Management charged owners corporation for passively attending CTTT hearing in case 12/32675 on 10 May 2013, without disclosing evidence of fraud to CTTT:

Three staff members were present, without offering any assistance to the Tribunal: Mr. Peter Bone, Mr. Paul Banoob, and a third one was an unknown entity. They charged SP52948 \$495.00 (GST inclusive) for their "efforts":

Locked Bag 22 HAYMARKET NSW 1238  
strata@bcms.com.au  
www.bcms.com.au  
Ph. 02 9868 2999  
Fax. 02 8216 0331

<b>Tax Invoice:</b> F1110336749	<b>Date:</b> 29/05/2013
<b>From:</b> RAINE & HORNE STRATA SYDNEY ABN 63001615587	<b>To:</b> SP 52948 1-15 FONTENOY ROAD MACQUARIE PARK NSW 2113
<b>Re:</b> Attend CTTT Hearing 10 May 2013	

Details	Value
Services as per attached schedule	\$450.00
GST Payable	\$45.00
<b>Total Due (inclusive of GST)</b>	<b>\$495.00</b>

86. On 10 May 2013 Lot 158 issued request to Solicitor Adrian Mueller to return private property and reimburse owners corporation:

*As agreed at the CTTT Hearing today, since you are not a properly endorsed legal representative of the SP52948 in File SCS 12/50460, and based on the fact that you kept falsely claiming it to the DFT and the CTTT until 6 May 2013 (when I forced you to issue a new contract), you are instructed to return two folders with my evidence in SCS 12/50460 by registered post or in person immediately.*

*This request has to be taken in context that I will allow seven days (five working days from today) for my files to be returned (by the end of business hours on 17 May 2013).*

*You are currently holding these PRIVATE documents illegally and without authority.*

*I will allow service by post as per NSW Interpretation Act 1897 Section 76:*

*(b) in Australia or in an external Territory-is, unless evidence sufficient to raise doubt is adduced to the contrary, taken to have been effected on the fourth working day after the letter was posted...*

*Silence will be taken as agreement with my request.*

*b) The Strata Manager, the EC and you, must immediately review the invoice in amount of \$1,452.00 that you submitted to the owners corporation on 6 March 2013 because almost all expenses in it were related to the CTTT File SCS 12/50460 (and corresponding DFT SM12/1537JR), and some even private financial matters between Raine & Horne Strata and myself (which you cannot claim from owners corporation).*

*A quick reimbursement of the illegal expenses is required immediately as the funds of the owners corporation have been abused without approval.*

*c) You will disclose to owners corporation and myself all costs (current estimate above \$25,000.00) from the Standard Cost Agreement of \$11,550.00 as "approved" by the EC members on 16 July 2012.*

*d) Finally, you are requested to provide evidence why you failed to notify the owners corporation about all expenses and substantial changes to the Cost Agreement as per Legal Profession Act 2004:*

*If the Solicitor becomes 'aware' of a substantial 'change' in anything 'included in' prior disclosure, there is a duty to update the disclosure under Section 316*

*It is actually covered by Section 309(1)(b)(iv) (and Section 316) of the Legal Profession Act 2004.*

*That has not happened in our complex.*

*This was also listed in your Standard Cost Agreement but not adopted by the Solicitor.*

*This clause imposes on the Solicitor an obligation to inform the client of any substantial changes to anything (as soon as practicable after he becomes aware of the changes) required to be disclosed to the client.*

87. After Solicitor Adrian Mueller refusal to comply, Lot 158 sent an updated response on 14 May 2013:

**Subject:** RE: OFFICIAL REQUEST on 10 May 2013: Immediate return of private property and reimbursement of Invoice on 6 March 2013

**From:** [REDACTED]

**Date:** 14/5/13, 7:15 pm

**To:** Adrian Mueller <[REDACTED]>

**CC:** Peter Bone <PeterB@bcms.com.au>, Paul Banoob <[REDACTED]>

Hello,

Frankly, I do not care what you say nor you make any sense. What you say is worthless.

CTTT and the DFT were notified this week.

I am your client - I am part of the owners corporation and also hold several proxies vested in me.

In addition (you are not allowed to know the details yet), many owners are receiving my reports and number of them are getting ready to deal with you and the Strata Agency when the time is right.

So, you are holding the documents illegally, you represented your self in a false manner to the DFT and the CTTT, you charged expenses in the case SCS 12/50460 you were/are not even authorized to claim, and you refuse to disclose full expenses which you HAD to provide to the owners corporation long ago.

I am not sure what you think will happen next.

Maybe you think that people have to "fear" you!? That does not work on me.

88. Lot 158 sent another updated request to Solicitor Adrian Mueller on 1 June 2013:

Reply-To: SP52948 owner

To: Adrian Mueller <[REDACTED]>

Cc: bruce@[REDACTED], esaults@[REDACTED], mcdonald151@[REDACTED], pogo@[REDACTED], zelle@[REDACTED], jward@[REDACTED], bcopland@[REDACTED], Peter Bone <PeterB@bcms.com.au>, Paul Banoob <[REDACTED]>

Bcc: [REDACTED]

Subject: Re: OFFICIAL REQUEST on 1 June 2013: Immediate return of private property and reimbursement of Invoice on 6 March 2013

Body Text Variable Width

Hello,

Based on yet another evidence that you do not have authority to represent the owners corporation in SCS 12/50460 (nor you ever had authority to work in SCS 12/32675 and SCS 12/05845 through properly convened EC or general meetings), it is your obligation to return the folders that are in your custody ILLEGALLY.

You have deceived the DFT and the CTTT by claiming so and you have provided false statements about it to the owners corporation.

In addition, it is your duty and the EC's obligation to force you to refund the fees you overcharged and wrongly claimed.

Based on calls to the Strata Manager and emails to me, close to 30 owners are now firm in their opinion that your services are not required in our complex and do not want any CTTT cases (providing an EGM is convened shortly). For details, ask the EC and the Strata Manager.

In addition, you are requested to provide me with the estimate and the cost agreement for any work in relation to your reply to the CTTT by 4 June 2013 which, apparently, the EC members approved at the meeting on 22 May 2013.

Without it, I will request that any submission by you must be dismissed due to lack of procedures as per Legal Profession Act 2004 and the SSMA 1996 (and will remind the CTTT that they must provide the evidence before they make such a decision). The owners should have received your estimate and the cost agreement for any work above \$750.00 before the EC meeting in May. You certainly cannot provide any valuable submission to the CTTT without reading some of my large evidence firstly. Based on simple fact that you charge \$44.00 for even half-page emails, you cannot do any productive work for the owners corporation without charging well above \$750.00, or hiding these costs for some future invoice to avoid scrutiny now. So, the claim that your "fee" would be below \$750.00 would be challenged.

I allow you till Monday afternoon to respond. With, or without your response, this email will be submitted to the CTTT on Tuesday, 4 June 2013.

The important extract from the email:

*Based on yet another evidence that you do not have authority to represent the owners corporation in SCS 12/50460 (nor you ever had authority to work in SCS 12/32675 and SCS 12/05845 through properly convened EC or general meetings), it is your obligation to return the folders that are in your custody ILLEGALLY.*

*You have deceived the DFT and the CTTT by claiming so and you have provided false statements about it to the owners corporation.*

*In addition, it is your duty and the EC's obligation to force you to refund the fees you overcharged and wrongly claimed.*

*Based on calls to the Strata Manager and emails to me, close to 30 owners are now firm in their opinion that your services are not required in our complex and do not want any CTTT cases (providing an EGM is convened shortly). For details, ask the EC and the Strata Manager.*

89. On 17 May 2013 Lot 158 sent warning to BCS Strata Management with owners' votes against Solicitor Adrian Mueller's engagement:

Extract from the email:

**Subject:** VOTES AGAINST THE ENGAGEMENT OF SOLICITOR AND NOTIFICATION FOR OWNERS ABOUT PENDING CTTT CASE SCS 12/50460: 17 May 2013

**From:** [REDACTED]

**Date:** 17/5/13, 7:16 pm

**To:** Peter Bone

**CC:** Paul Banoob <[REDACTED]>, "bruce" <[REDACTED]>

<esaulits@[REDACTED]>

"mcdonald151" <[REDACTED]>, "pogo" <[REDACTED]>

<zellever@[REDACTED]>

"jward" <[REDACTED]>

<bcopland@[REDACTED]>

**Reply-to:**

Hello,

Last week, I documented why the Solicitor was not required. The report was sent to the members of the EC and yourself. Nobody attempted to respond to me.

Earlier today, an agenda for the EC meeting on 22 May 2013 was received.

BY THE PROXY VOTES VESTED IN ME AND MYSELF, YOU ARE INSTRUCTED TO RECORD THAT WE DO NOT APPROVE ENGAGEMENT OF ANY SOLICITOR AS UNNECESSARY, COSTLY, AND UNAPPROVED AT THE GENERAL MEETING.

\* You were supposed to organize the general meeting, where, if conducted properly, all issues could be discussed and voted without any involvement of the Solicitor would be utterly unnecessary.

\* You were supposed to seek one or preferably two more proposals for cost agreement from other Solicitors - you FAILED TO DO IT,

\* You were supposed to request the Solicitor to reimburse the owners corporation for over-inflated and illegal Solicitor's expenses that I documented last week. You FAILED TO DO IT.

Some of the owners' emails:

SP52948 owners against legal costs ignored by executive committee and BCS Strata Management in May 2013

90. On 22 May 2013 Mr. Peter Bone replied to a concerned owner. In part of the email, he said:

*The engagement of lawyers was a decision of the Owners Corporation, not our office.*

*Attendance at CTTT hearings is a responsibility of the Owners Corporation, not our office, though representatives of our office may attend such hearings for the purpose of providing information, if so requested by the Owners Corporation (personally we would prefer not to have to attend CTTT at any time).*

91. On 24 May 2013 BCS Strata Management wrote to CTTT, asking for extension of time to submit response in case SCS 12/50460, and confirmed that engagement of Solicitor would require general meeting, which did not apply to case SCS 12/32675 where Solicitor Adrian Mueller was "approved" without general meeting, without any valid legally-compliant committee meeting, and without any notifications to owners:



24<sup>th</sup> May 2013

Consumer, Trader & Tenancy Tribunal  
GPO Box 4005  
SYDNEY NSW 2001

By Facsimile: 1300 135 247

Dear Sir/Madam,

Re: **STRATA PLAN 52948 – 1-15 FONTENOY ROAD MACQUARIE PARK**  
**CTTT FILE NUMBER: SCS 12/50460**

We are the Strata Managing Agents for the above property.

We refer to your recent correspondence regarding the above Application and seek an extension of time for the preparation of a submission in relation to this application.

The Executive Committee for Strata Plan 52948 convened a Committee Meeting on 22<sup>nd</sup> May 2013. This meeting reviewed the application made by [REDACTED]. In addition to the application, as provided by CTTT, the Owners Corporation is in receipt of many hundreds of pages of 'supporting material' lodged by [REDACTED].

In order to properly assess this application and supporting material, the Executive Committee considers it necessary to engage legal representation.

To incur this legal expense, the Owners Corporation needs to convene an Extraordinary General Meeting and if approved, engage a lawyer. The lawyer will then require time to review the application and supporting material, and prepare a submission on behalf of the Owners Corporation.

Accordingly we kindly request an extension of time to prepare and submit a submission relating to this matter.

Yours faithfully  
**Raine & Horne Strata – Sydney**



Peter Bone  
Portfolio Manager

92. On 17 June 2013 BCS Strata Management sent email to two committee members (Mr. Bruce Copland and unfinancial owner Mr. Moses Levitt), stating:

**Subject:** RE: SP 52948 - Next ECM and Legal Defence Insurance Claim  
**From:** Peter Bone </O=PICA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=PETERBONE>

**Date:** 17/6/13, 9:55 am

**To:** 'Mo & Zelda Levitt' <zelleve([REDACTED])> 'Bruce Copland' <bcopland([REDACTED])>

Good morning Mo

We are still, unfortunately, awaiting the CTTT's decision re the costs application.

The scheme's insurance company accepted the "legal defence" claim lodged some time ago, as this insurance policy is not dependant on a successful court / CTTT action.

Regards

From: Mo & Zelda Levitt [[mailto:zelleve\(\[REDACTED\]\)](mailto:zelleve([REDACTED]))]  
Sent: Thursday, 13 June 2013 7:41 PM  
To: Peter Bone; 'Bruce Copland'  
Subject: RE: SP 52948 - Next ECM and Legal Defence Insurance Claim

Does this mean the CTTT has ruled in our favour wrt db's costs? Or does it refer to something else?

Mo

*We are still, unfortunately, awaiting the CTTT's decision re the costs application.*

*The scheme's insurance company accepted the legal defence claim lodged some time ago, as this insurance policy is not dependant on a successful court / CTTT action.*

This fourth insurance claim was for non-existent CTTT case for defence of Lot 3.

93. On 26 August 2013, committee members and BCS Strata Management Mr. Peter Bone were warned about illegal insurance claims. Extract from the email. Recipients included Mrs. Lorna Zelenzku (unfinancial owner for whom Solicitor Adrian Mueller and Mr. Peter Bone orchestrated four insurance claims for non-existent CTTT case "defence of Lot 3"), Mr. Moses Levitt (unfinancial owner), and Mr. Stan Pogorelsky (unfinancial owner):

**Subject:** PRIVATE AND SENSITIVE REQUEST: SP52948 Insurance Claims

**Date:** 26/8/13, 17:27

**To:** Peter Bone

**CC:** Lorna Zelenzuk, Rafael Hirschhorn, Paul Banoob, Maureen McDonald, Stan Pogorelsky, Moses Levitt, John Ward, Bruce Copland

Hello,

**This is a sensitive message that must not be published or given to anyone outside the mailing list without my approval. Only I can make a decision about its publication.**

On three occasions you were asked to provide full details of the alleged insurance claims against legal expenses in relation to (supposedly) CTTT cases SCS 12/32675 and 12/50460 that I raised:

17 June 2013

30 June 2013

5 July 2013

You failed to respond although the expenses for Solicitor Mr. Adrian Mueller in amount of \$32,661.24 were incurred UNNECESSARILY, ILLEGALLY and IN A FRAUDULENT MANNER, at expense of all owners in the strata complex. Neither the Solicitor's engagement was approved at any meeting, nor the owners were even told about their rights.

In the meantime, CHU Insurance paid us \$10,517.02 for legal costs in relation to Lot 3 for incident that happened on 12 June 2012 (at least that is what the insurance claim states). This legal case was never announced to owners, nor the expenses ever listed.

I spoke to CHU Insurance today (lady called Nadia) and she REFUSED to provide additional details, claiming that owners should get information from the Strata Manager and the Executive Committee. Of course, that is nonsense. Every business that affect investment of owners in the complex should be a shared information.

By CC-ing the relevant parties, I give you the deadline by Wednesday, 12:00 (midday) on 28 August 2013 to respond to me and provide some reasonable details of this claim (and all other insurance claims in FY 2012 and 2013).

If I see that there is really a strong reason not to disclose this information to every owner, I will certainly respect the privacy of Lot owner 3. But I will not allow to be lied to. You can lie to your family and friends, but not to me, who is YOUR EMPLOYER.

As a side note, we need to confirm that:

a) Strata Manager did not provide any details for public liability insurance by Lot 3 for the last eight years UNTIL the mid this year when two partial documents showed up on web site.

b) At the time of CTTT Hearings on 17 October 2012, the Solicitor Mr. Adrian Mueller provided no proof of the insurance and even falsified the statement that owners of Lot 3 could not attend because they were overseas.

Straight after the AGM 2012, where one of the owners of Lot 3 was present in person, I issued you with a request to get a proof of their insurance (compliance with the Special By-Law). You failed to do it, and throughout 2013 in CTTT Case SCS 12/50460 you continued to act against the SSMA 1996.

c) All of a sudden, partial copies from two insurers seem to say that owner of Lot 3 now has two public liability insurances, each in amount of \$20,000.000.00, but there is an interesting catch:

The GIO insurance policy was issued on 18 October 2012 (one day after the AGM 2012 and the CTTT Hearing) and backdated to 13 September 2012

The APIA insurance policy was issued for period starting 16 November 2012 (one month after the AGM 2012 and the CTTT Hearing)

**The documents for all years before the AGM 2012 are still missing, which means that the Strata Manager FAILED to uphold the By-Laws of SP52948 in this regard (and in many others).**

Committee members and BCS Strata Management ignored this email.

94. On 30 August 2013, Solicitor Adrian Mueller provided secret advice to BCS Strata Management Mr. Paul Banoob and Mr. Peter Bone in response to Lot 158's confidential inquiry to committee members about insurance claims for Solicitor's costs (giving members of the committee opportunity to act in confidence to prove that insurance claims were not fraudulent):

**Subject:** Re: SP 52948 - FW: PRIVATE AND SENSITIVE REQUEST: SP52948 Insurance Claims  
**From:** Adrian Mueller <[REDACTED]>  
**Date:** 30/8/13, 9:02 am  
**To:** Peter Bone <PeterB@bcms.com.au>  
**CC:** Adrian Mueller <[REDACTED]>, Paul Banoob <[REDACTED]>

Peter

I do not believe you are under any obligation to keep [REDACTED] email confidential. The email forms part of the OCs records that are capable of being inspected and disclosed under section 108 Strata Schemes Management Act 1996.

Regards

Adrian Mueller  
J S Mueller & Co  
Solicitors

Liability limited by a scheme approved under professional standards legislation.

Owners were never notified about both emails (26 and 30 August 2013).

Transcript from Solicitor's email:

*Subject: Re: SP 52948 - FW: PRIVATE AND SENSITIVE REQUEST: SP52948 Insurance Claims*

*From: Adrian Mueller*

*Date: 30/8/13, 9:02 am*

*To: Peter Bone*

*CC: Adrian Mueller, Paul Banoob*

*Peter*

*I do not believe you are under any obligation to keep Lot 158 email confidential. The email forms part of the OCs records that are capable of being inspected and disclosed under section 108 Strata Schemes Management Act 1996.*

95. On 9 September 2013 Chairperson of the committee Mr. Bruce Copland instructed BCS Strata Management to make Lot 158 document search as inconvenient as possible, and at the same time trying to hide evidence of his own involvement:

**From:** Bruce Copland [REDACTED]  
**Sent:** Thursday, 5 September 2013 7:09 AM  
**To:** Paul Banoob  
**Cc:** John Ward  
**Subject:** The continuing [REDACTED] saga

Paul,

**I consider that correspondence between myself and Raine & Horne Strata is personal and not part of the records of the SP52948.**

**I am of the firm view that all correspondence and material related to any CTTT claim lodged by [REDACTED] automatically becomes privileged and that by taking the action he has locked himself out of access to any material.**

I am overseas till 29 September.

**I know that there are a number of miscodings in this years accounts and that is will be well into September before al, journals for water gas and electricity adjustments, journals for levies in advance are posted.**

I would like to review the accounts in detail as soon as I get back and have you arrange for auditor on Monday 7<sup>th</sup> October. The committee plans to meet on previous Wednesday informally to review accounts and budget.

**I sincerely hope CTTT issue the costs claim decision soon.**

**Given the likely lengthy list of motions from [REDACTED] may I suggest that an early draft of the AGM notice be prepared following the pattern and order of motions that we used last year.**

**I intend to put one motion in before all of [REDACTED] motions to move that all motions that are merely repetitious of prior year AGM submissions by [REDACTED] are rejected as time wasting and vexatious.**

I will produce an Annual Report covering the last year for inclusion with the accounts, budget and AGM notices and update all owners on the real state of affairs.

**I trust you can make his inspection as inconvenient as possible!.**

**There will be no motion supported by the committee to change the Managing Agent and in my view your contract does not require to be tendered this year as we were satisfied last year that a careful test was done.**

Bruce

96. Lot 158 document viewing at BCS Strata Management including strata manager's own written notes on 17 October 2013 (Outcome on 17 October 2013 - Lot 158 was yet again refused access to files for CTTT SCS 12/32675, SCS 12/50450, SCS 12/50460, and Annual General Meeting (AGM) in spite of the fact that Lot 158 was legally valid committee member).

97. Solicitor Adrian Mueller secret letter to BCS Strata Management on 8 November 2013:



- that costs order should be made in respect of the continuation of the appeal after that point;
- it was in the interests of all parties for the Tribunal to fix a lump sum amount of costs in the sum of \$8,800 inclusive of GST.

The lump sum amount of costs the Tribunal has ordered [REDACTED] to pay the owners corporation is less than the actual amount of legal costs the owners corporation incurred in the appeal. This is largely because Deputy Chairperson Harrowell decided that it was not appropriate to order [REDACTED] to pay the owners corporation's costs on an indemnity basis and also because the Deputy Chairperson did not take into account the additional costs the owners corporation incurred preparing supplementary submissions and attending the additional hearing of the costs application on 10 May 2013. Nevertheless, I understand the owners corporation has been indemnified for its legal costs by its insurer and therefore this issue is not likely to be of significantly concern to the owners corporation.

[REDACTED] has 28 days to appeal to the District Court against the decision of Deputy Chairperson Harrowell. In limited circumstances the appeal period can be extended. [REDACTED] appeal rights are limited to an appeal based on a decision with respect to a question of law. This is a limited right of appeal where [REDACTED] would only be able to argue that the Tribunal's decision should be overturned because of some legal error made by the Deputy Chairperson in reaching the conclusion that he should be ordered to pay the owners corporation's costs. The District Court is able to uphold, set aside or vary the Tribunal's decision or remit the matter back to the Tribunal for a rehearing.

There are several ways the owners corporation is able to enforce the costs order. The owners corporation could apply to the Local Court for a garnishee order to be issued against [REDACTED] bank to require the bank to pay out of [REDACTED] account up to \$8,800 in satisfaction of the costs order. Alternatively, the owners corporation could apply to the Local Court for a Writ for the Levy of Property to be issued to give the Sheriff lawful authority to attend [REDACTED] property to seize and subsequently sell by public auction certain goods owned by him. Finally, the owners corporation could issue a bankruptcy notice against [REDACTED] to give him 21 days to pay the \$8,800 in costs and, if [REDACTED] fails to do so, the owners corporation could apply to the Federal Circuit Court of Australia for an order declaring [REDACTED] a bankrupt.

If the owners corporation has [REDACTED] bank account details, then the most expedient way to recover the \$8,800 in costs would be through the issue of a garnishee order by the Local Court to [REDACTED] bank. Regardless, the owners corporation should not take any steps to enforce the costs order until the 28 day appeal period has expired.

I congratulate the owners corporation on the successful outcome. The Tribunal is generally a "no costs" forum, meaning it does not normally order an unsuccessful party to pay the successful party's costs. It is even more rare for the Tribunal to fix a lump sum amount of costs that are payable to the unsuccessful party. The making of a lump sum costs order means that the owners corporation avoids the additional expense, delay and aggravation associated with a costs assessment process which

Extract from the transcript:

*I am pleased to report that the application by the owners corporation for the Tribunal to order Lot 158 to pay its costs of his appeal has been successful.*

*On 6 November 2013 Deputy Chairperson Harrowell ordered Lot 158 to immediately pay to the owners corporation its costs of the appeal assessed in the sum of \$8,800 inclusive of GST.*

*I enclose a copy of the Reasons for Decision of Deputy Chairperson Harrowell dated 6 November 2013. The key findings made by Deputy Chairperson Harrowell were as follows:*

*\* J S Mueller & Co was validly appointed to act for the owners corporation in the appeal;*

*\* Lot 158 decision to continue his appeal after settlement of his claim for the owners corporation to provide certain documents to him was unreasonable;*

*\* the continuation of the appeal by Lot 158 beyond that point was misconceived or lacking in substance and justified the Tribunal making an order for Lot 158 to pay the owners corporation's costs;*

*\* that costs order should be made in respect of the continuation of the appeal after that point;*

*\* it was in the interests of all parties for the Tribunal to fix a lump sum amount of costs in the sum of \$8,800 inclusive of GST.*

*The lump sum amount of costs the Tribunal has ordered Lot 158 to pay the owners corporation is less than the actual amount of legal costs the owners corporation incurred in the appeal. This is largely because Deputy Chairperson Harrowell decided that it was not appropriate to order Lot 158 to pay the owners corporation's costs on an indemnity basis and also because the Deputy Chairperson did not take into account the additional costs the owners corporation incurred preparing supplementary submissions and attending the additional hearing of the costs application on 10 May 2013. Nevertheless, I understand the owners corporation has been indemnified for its legal costs by its insurer and therefore this issue is not likely to be of significantly concern to the owners corporation.*

*Lot 158 has 28 days to appeal to the District Court against the decision of Deputy Chairperson Harrowell. In limited circumstances the appeal period can be extended. Lot 158 appeal rights are limited to an appeal based on a decision with respect to a question of law. This is a limited right of appeal where Lot 158 would only be able to argue that the Tribunal's decision should be overturned because of some legal error made by the Deputy Chairperson in reaching the conclusion that he should be ordered to pay the owners corporation's costs. The District Court is able to uphold, set aside or vary the Tribunal's decision or remit the matter back to the Tribunal for a rehearing.*

*There are several ways the owners corporation is able to enforce the costs order. The owners corporation could apply to the Local Court for a garnishee order to be issued against Lot 158 bank to require the bank to pay out of Lot 158 account*




up to \$8,800 in satisfaction of the costs order. Alternatively, the owners corporation could apply to the Local Court for a Writ for the Levy of Property to be issued to give the Sheriff lawful authority to attend Lot 158 property to seize and subsequently sell by public auction certain goods owned by him. Finally, the owners corporation could issue a bankruptcy notice against Lot 158 to give him 21 days to pay the \$8,800 in costs and, if Lot 158 fails to do so, the owners corporation could apply to the Federal Circuit Court of Australia for an order declaring Lot 158 a bankrupt.

If the owners corporation has Lot 158 bank account details, then the most expedient way to recover the \$8,800 in costs would be through the issue of a garnishee order by the Local Court to Lot 158 bank. Regardless, the owners corporation should not take any steps to enforce the costs order until the 28 day appeal period has expired.

I congratulate the owners corporation on the successful outcome. The Tribunal is generally a "no costs" forum, meaning it does not normally order an unsuccessful party to pay the successful party's costs. It is even more rare for the Tribunal to fix a lump sum amount of costs that are payable to the unsuccessful party. The making of a lump sum costs order means that the owners corporation avoids the additional expense, delay and aggravation associated with a costs assessment process which would involve an independent solicitor or barrister reviewing the legal costs incurred by the owners corporation to determine a reasonable amount, which process would give Lot 158 the opportunity to make written submissions on the reasonableness of the owners corporation's costs. For these reasons the owners corporation should be incredibly pleased with the outcome.

I now enclose my memorandum of fees. If you receive notice of an appeal made by Lot 158 to the District Court, please let me know. Otherwise, after the expiry of 28 days, I look forward to receiving your instructions to enforce the costs order.

98. BCS Strata Management charged owners corporation for attending CTTT Directions Hearing in file SCS 13/50737 on 25 November 2013 (this was a new case against Solicitor Adrian Mueller and SP52948 mismanagement), without disclosing evidence of fraud to CTTT:

RAINE & HORNE STRATA SYDNEY ABN 63001615587		
Locked Bag 22 HAYMARKET NSW 1238 strata@bcms.com.au www.bcms.com.au Ph. 02 9868 2999 Fax. 02 8216 0331		
<b>Tax Invoice:</b> F1110446988		<b>Date:</b> 25/11/2013
<b>From:</b> RAINE & HORNE STRATA SYDNEY ABN 63001615587		<b>To:</b> SP 52948 1-15 FONTENOY ROAD MACQUARIE PARK NSW 2113
<b>Re:</b> Attend CTTT Directions Hearing		
<b>Details</b>		<b>Value</b>
Services as per attached schedule		\$400.00
GST Payable		\$40.00
<b>Total Due (inclusive of GST)</b>		<b>\$440.00</b>

99. BCS Strata Management Peter Bone's Affidavit to District Court on 31 January 2014 again contained false statements as access to strata files was disabled for Lot 158 multiple times. Solicitor Adrian Mueller presented this Affidavit to District Court in case 2013/360456 with full knowledge that it contained false statements but did not inform the Judge:

**AFFIDAVIT DETAILS**

Name Peter Bone  
 Address Level 2, 51 Rawson Street Epping  
 Occupation Strata Managing Agent  
 Date 31 January 2014

I say on oath:

1. I am employed by Body Corporate Management Services Pty Ltd trading as Raine & Horne Strata – Sydney which is the strata managing agent of the defendant ("owners corporation").
2. I am the person at Raine & Horne Strata – Sydney presently responsible for the day-to-day strata title management of the owners corporation.
3. Raine & Horne Strata – Sydney has custody and control of the books and records of the owners corporation.
4. I have perused the affidavit of the plaintiff, \_\_\_\_\_, affirmed on 13 January 2014.
5. The documents contained in annexures "DB1" – "DB4" of that affidavit:
  - (a) all form part of the books and records of the owners corporation;
  - (b) were each available for \_\_\_\_\_ to inspect and take copies of at the office of Raine & Horne Strata – Sydney shortly after they were each generated pursuant to section 108 of the *Strata Schemes Management Act 1996*; and
  - (c) would have been made available for \_\_\_\_\_ to inspect and take copies of at the office of Raine & Horne Strata – Sydney had he made a proper application to inspect those documents shortly before 10 May 2013 pursuant to section 108 of that Act (apart from the document appearing on page 52 of the affidavit as that document was generated on 4 June 2013).




3

6. \_\_\_\_\_ did not between 1 January 2013 and 10 May 2013 make an application to inspection the books and records of the owners corporation that complied with section 108 of the *Strata Schemes Management Act 1996*.

SWORN at Epping

Solicitor Adrian Mueller was well aware of Lot 158 Affidavit to District Court on 4 February 2014, which he chose to ignore and coerced the Judge to not consider it too.

An example of Lot 158 being prevented from access to strata files in March 2013, which Mr. Peter Bone failed to declare in his Affidavit (directly lying to court):

BCS Strata Management organised strata document viewing for Lot 158 on 8 March 2013.

When Lot 158 arrived at BCS Strata Management's office on 8 March 2013, almost none of the files were made available, including Solicitor Adrian Mueller's signed Standard Costs Agreement.

Lot 158 made copies of some files and was charged an extra \$172.80 by BCS Strata Management.

Lot 158 made payment on 11 March 2013.

100. Since 2012, all the way to 2022, Solicitor Adrian Mueller has been actively involved in preventing SP52948 owners to consider or vote on Lot 158 Motions.

101. BCS Strata Management secretly engaged Solicitor Adrian Mueller to manipulate and misquote Lot 158's Motions at AGM 2014:

**Subject:** SP 52948 - 2014 AGM - Motions Proposed by I (22012)  
**From:** Adrian Mueller <[REDACTED]>  
**Date:** 28/10/14, 10:48 am  
**To:** "russell.young@bcssm.com.au" <russell.young@bcssm.com.au>  
**CC:** "bcopland@bcssm.com.au"  
"paul.banoob@bcssm.com.au"  
"billy.cheung@picaust.com.au"

Dear Russell

I attach:

1. Letter of advice.
2. Motions submitted by I (marked up).
3. Tax invoice.

Thank you for your instructions.

Regards

Adrian Mueller  
Solicitor

102. Pica Group CEO and Managing Director Greg Nash gave appearance of his commitment to investigate Lot 158's in public post on reputable ProductReview website on 9 December 2015 but never delivered on his promise:

 **BCS Strata Management Official**

Thank you for your feedback.

We have escalated this within our team to our Managing Director and Group CEO of the PICA Group of Companies, Greg Nash. He will be taking over this matter personally and has begun an internal investigation into these allegations. We are working on the assumption that they are genuine and this is not an unfortunate misunderstanding. This investigation will determine next steps and our response.

In order to resolve the matter as quickly as possible, could you please contact us on (02) 8216-0387. This will ensure Greg is involved in future dialogue on this matter.

The PICA Group is committed to excellent customer service with integrity and honesty at all times. It is the PICA Group's intention to resolve this matter quickly and fairly for all concerned.

Thank you.

BCS Strata Management posted on Dec 09, 2015

103. Since 2015, BCS Strata Management and Pica Group (parent company of BCS Strata Management) failed to respond to any issues at ProductReview website. Extract from the site, which contains many posts (unanswered by BCS Strata Management and Pica Group):

[Best Strata & Property Management Services](#) > [BCS Strata Management](#) > Review by SamJR

## BCS Strata Management - 100 Shades of Bad

★☆☆☆☆ review by SamJR

**bcs** BCS Strata Management  
★★★★☆ 4.2 from 1,137 reviews

**SamJR** Sydney · 181 posts  
★★★★☆ 6y ago · Verified

### BCS Strata Management - 100 Shades of Bad

Firstly, after 16 years of winning management contracts without alternative bids, BCS Strata Management (Epping office) was voted out in my complex at AGM in October 2016.

Seven Strata Managers and three Branch Managers were replaced from the same BCS office for my complex in period 2010-2016.

Over 16 years, BCS was directly involved in numerous acts of mismanagement, including: poor maintenance, non-compliance with fire safety regulations, hidden payments to selective owners and three EC members, lack of quorums at general meetings, false Statutory Declaration to CTTT, poor accounting practices, rigged or no tenders for elevator, caretaking, building painting, and other contracts at excessive costs to owners, bullying of owners, belated payments, undisclosed accounting figures, and much more.

Managing Director / CEO of Pica Group (parent company of BCS Strata Management) promised to investigate all claims on 9 December 2015. It was in response to owner's detailed evidence in this very forum (type 1 data - meaning: full evidence) published on 17 November 2014, to which BCS did not reply for one year and one month.

Updated owner's version was published in the same forum in Nov2015.

On 18 December 2015 I forced document search (SSMA 1996 S108). BCS again failed to provide financial files and other documents. I left voice mail for Managing Director and CEO of Pica Group.

Nothing happened until 14 January 2016, when somebody on behalf of BCS published in this forum that they attempted to contact me and I was "unavailable". I replied with evidence of false claims by BCS staff.

Jan2017: No replies from BCS/Pica Group.

More than 50 direct attempts to engage BCS Strata Management COO NSW were ignored.

Direct attempts to contact Pica Group Managing Director and CEO were ignored. I even warned Pica Group that their web link for complaints were broken for a long time and nobody could submit any issues.

To stay polite in public, I cannot use words that they deserve for their services. Decision by my owners corporation at AGM 2016 to remove them from managing the complex speaks for itself.

104. Instead of resolving the serious complaints of fraud and mismanagement, Pica Group Greg Freeman attempted to threaten Lot 158 with defamation request on 19 January 2016:



18 January 2016

MACQUARIE PARK NSW 2113  
Via post & email

**RE: SP 52948: 1-15 FONTENOY ROAD MACQUARIE PARK NSW 2113  
WITHOUT PREJUDICE - DEFAMATION OF BCS PERSONNEL BY [REDACTED] (CO-  
OWNER OF LOT 158)**

As you are aware, BCS Strata Management Pty Ltd (BCS), is the appointed strata managing agent for The Owners – Strata Plan No 52948 (**the owners corporation**).

We note you are the author and publisher of the website [www.nswstratasleuth.id.au](http://www.nswstratasleuth.id.au). We have reviewed the content of your website and have identified numerous defamatory statements you have made against persons employed by BCS as well as executive committee and other members of the owners corporation.

We also note you are the author of defamatory statements / material in relation to BCS personnel posted on another website known as "ProductReview.com.au" whose specific site reference is <http://www.productreview.com.au/p/bcs-strata-management.html>

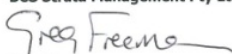
We draw your attention to the Defamation Act 2005 (NSW), which provides that persons who are defamed by statements published by you are able to commence legal proceedings against you for the removal of the defamatory statements and seek damages for any harm caused by your defamatory statement.

Accordingly and to avoid the possibility of an individual who have been defamed commencing legal proceedings, we demand the following immediate action by you:

1. You immediately remove all content on your website, and in particular those parts making comment on individuals;
2. You issue an apology for making the defamatory statements;
3. You undertake in future not to make any defamatory statement against the employees of BCS as well as the executive committee and other members of the owners corporation.

We thank you in advance for your prompt attention to this matter.

Yours faithfully  
**BCS Strata Management Pty Ltd**

  
Greg Freeman  
Corporation Licensee

105. Letter of demand was sent by Lot 158 to Pica Group Mr. Greg Freeman, Mr. Paul Banoob, and Mr. Adrian Carr on 2 October 2020. Their help was requested for NCAT case SC 20/33352. Response by them never provided.
106. Letter of demand was sent by Lot 158 to Pica Group Mr. Greg Nash, Mr. Greg Freeman, Mr. Paul Banoob, and Mr. Adrian Carr on 11 February 2022. Their help was requested for NCAT case SC 20/33352 and Office of Legal Services Commissioner investigation of Solicitor Adrian Mueller. Response by them never provided.
107. BCS Strata Management Mr. Simon Brikha hid information from owners that CHU Insurance initiated recovery of some insurance claims for Solicitor Adrian Mueller legal costs on the day of AGM 2016 (19 October 2016), and again on 11 January 2017, and it only appeared known to owners when new strata agency Waratah Strata Management received updated requests in March 2017:

Hello Simon,

I called yesterday and Linda from your office returned my call this morning.

As I explained to her CHU allowed a legal defences claim in respect of CTTT proceedings bought against it by . A total of 4 payments between 31 August 2012 and 4 June 2013 were made to the strata manager on the claim totalling \$24,919.31 not including GST. I do not have the invoices but the amounts of the payments and the dates are as follows:

CTTT Defence/Lot 3	31/08/2012	The Owners – SP 52948	\$ 1,504.40	\$ 1,000.00	\$ 136.76	\$ 367.64
CTTT Defence Lot 3	7/12/2012	The Owners – SP 52948	\$ 13,986.12	-	\$ 1,271.47	\$ 12,714.65
CTTT Defence Lot 3	26/04/2013	The Owners – SP 52948	\$ 1,452.00	-	\$ 132.00	\$ 1,320.00
Defence Lot 3	04/06/2013	The Owners – SP 52948	\$ 11,568.72	-	\$ 1,051.70	\$ 10,517.02
Total Paid			\$ 28,511.24	\$ 1,000.00	\$ 2,591.93	\$ 24,919.31

The OC made an application that the . pay its costs of part of those proceedings. That application was successful and the CTTT made an order on 6 November 2013 that . pay it \$8,800. I am told by the broker that this amount was paid by:

As CHU has paid all the legal expenses it would like the OC to refund the \$8,800 that it recovered from .

I appreciate that all of this probably happened before you were the strata manager but it would be appreciated if you could chase it up.

I understand the AGM is this evening so I thought it best to get the information to you as quickly as possible.

Attached for your reference are copies of our letter to the broker dated 18 October 2016 and the CTTT order and reasons both dated 6 November 2013.

From: Duncan Stuart

Sent: Wednesday, 11 January 2017 10:47 AM

To: simonbriha@bcssm.com.au; aiden.odea

Subject: to sm Re: OC 52948 re CHU refund re LDX claim ref NH201212589 [29583]

Dear Simon,

I have called and left a message for you. In the meantime an email.

As you will recall CHU is chasing repayment of \$8,800 refund from an LDX claim. Details are set out in my email below.

I was wondering how things were progressing and in particular whether the obligation to repay the monies had actually been brought to the OC's attention.

I was told last week that the OC had moved to Waratah Strata so I should chase that company up. I did and have now been told that the OC is still with you until the end of January.

Could you please advise me as to the status of the matter.

Thanks.

Regards,

Duncan Stuart  
Executive Lawyer  
McCulloch & Buggy Lawyers

SP52948 repayed \$8,800.00 to CHU Insurance, even though committee members who were active in period from 2012 to 2017 (with special emphasis on Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Jeffery Wang, and Mrs. Maureen McDonald) had knowledge that all four insurance claims were fraudulent:

From: Robert Crosbie  
Sent: Thursday, 23 March 2017 2:28 PM  
To: 'Duncan Stuart'  
Subject: RE: to sm Re: OC 52948 re CHU refund re LDX claim ref NH201212589 [29583]

Duncan,

We advise this issue was discussed at a committee meeting held last week and the committee have approved the refund of the \$8,800 to CHU. A cheque will be processed with our creditor payments early next week.

Regards,

Robert Crosbie  
Waratah Strata Management  
P.O. Box 125, Eastwood NSW 2122

Pay \$8,800  
to CHU

108. In July 2017, whilst being fully aware that they allowed four unfinancial owners to be on the committee and vote (Mrs. Lorna Zelenzuk, Mrs. Marianna Paltikian, Mr. Moses Levitt, and Mr. Stan Pogorelsky), Waratah Strata Management secretly engaged Solicitor Adrian Mueller to prevent Lot 158 (who was lgeally valid member of the committee) from submitting Motions at AGM 2017:

\$3,500 + GST to provide legal advice to the owners corporation as to its options for restraining DB from publishing potentially defamatory material about strata committee members and others;

- \$1,750 + GST to peruse DB's proposed motions and to draw a letter to him to advise that his motions will not be included in the AGM agenda;
- \$1,750 + GST to review DB's correspondence and draft a letter to be sent to owners to refute DB's accusations on behalf of the owners corporation and strata committee.

My fee proposal assumes I will not be required to peruse any additional documents other than those you have sent me.

The strata committee and owners can view my credentials on our website [www.muellers.com.au](http://www.muellers.com.au).

I attach my costs agreement and disclosure which set out the terms of my retainer and contain more information about my fees and charges.

I look forward to receiving your instructions.

Regards

Adrian Mueller  
Partner | Solicitor

J.S. MUELLER & CO  
LAWYERS  
J.S. Mueller & Co  
1st Floor  
240 Princes Highway  
Arncliffe NSW 2205  
DX 25315 ROCKDALE NSW

109. Solicitor Adrian Mueller provided advice how to ignore Lot 158's Motions for AGM on 23 August 2017 with details how to achieve it:

23 August 2017

158/1-15 Fontenoy Road  
MACQUARIE PARK NSW 2113

Dear Sir,

**Re: Request for Inclusion of Motions in Agenda of General Meeting**

We write as the strata managing agent of The Owners – Strata Plan No. 52948 at 1-15 Fontenoy Road, Macquarie Park.

We are writing in relation to your recent requests for a series of motions to be included in the agenda of the next general meeting of the owners corporation.

We regret to advise that your requests for those motions to be included in the agenda of the next general meeting generally do not comply with the strata legislation as a result of which the overwhelming majority of the material contained in your requests will not be included in the agenda of the next general meeting.

Yours faithfully

WARATAH STRATA MANAGEMENT

Solicitor Adrian Mueller suggested that strata manager sends letter to Lot 158 on the day of agenda being sent which would not give enough time for amended agenda, effectively excluding Lot 158's Motions:

The Secretary

The Owners - Strata Plan No. 52948

23 August 2017

necessary for any such letter to be sent by us to [redacted]. We have, therefore, drafted a letter for the strata managing agent of the owners corporation to send [redacted]. That letter merely states that the requests [redacted] has made for motions to be included in the agenda of the next general meeting generally do not comply with the strata legislation as a result of which the overwhelming majority of those motions will not be included in the agenda of the next general meeting. The owners corporation does not fall under any obligation to give [redacted] reasons for rejecting his motions as a result of which the letter we have drafted does not do so.

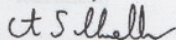
**3.6. Next Steps**

Once the owners corporation informs [redacted] that most of his motions will not be included in the agenda of the next general meeting, you should anticipate that [redacted] will object to that decision and, possibly, submit a revised request for the inclusion of motions in the meeting agenda. We therefore recommend that you inform [redacted] that his motions will not be included in the agenda of the next general meeting at the same time as the meeting agenda is served on owners.

Further, after the meeting is held, you should anticipate that [redacted] may take legal action against the owners corporation for refusing to include his motions in the agenda of the general meeting, and, therefore, the owners corporation will need to be able to justify its decision not to include those motions in the agenda, if necessary, before the NSW Civil and Administrative Tribunal.

We trust that our advice will prove helpful and we **attach** our memorandum of fees. Thank you for your instructions.

Yours faithfully



J.S. MUELLER & CO  
Encl.

Per: Adrian Mueller

Waratah Strata Management followed Solicitor Adrian Mueller's advice to the letter and send Lot 158 a letter excluding all his Motions on 10 October 2017:

**WARATAH**  
Strata Management

Address: P.O. Box 125, Eastwood NSW 2122 Phone: 02 9114 9599 Fax: 02 9114 9598  
Email: enquiry@waratahstrata.com.au Web: www.waratahstrata.com.au

10 October 2017

158/1-15 Fontenoy Road,  
MACQUARIE PARK NSW 2113

Dear Sir,

**RE: STRATA PLAN 52948, 1-15 FONTENOY ROAD, MACQUARIE PARK**

We write as the strata managing agent of The Owners – Strata Plan 52948 at 1-15 Fontenoy Road, Macquarie Park.

We are writing in relation to your recent requests for a series of motions to be included in the agenda of the next general meeting of the Owners Corporation.

We regret to advise that many of your requests for those motions to be included in the agenda of the next general meeting generally do not comply with the strata legislation, as a result of which the overwhelming majority of the material contained in your requests will not be included in the agenda of the next general meeting.

Yours faithfully,

**WARATAH STRATA MANAGEMENT PTY LTD**

*Robert Crosbie*

Strata Manager



## Motions, including ones related to fraud and false statements in Police Event E65804633:

Two most critical Motions that Solicitor Adrian Mueller and Waratah Strata Management prevented from being considered by 218 owners:

**Motion: Order strata documents to be handed over by Solicitor Mr. Adrian Mueller**

The Owners Corporation SP52948 by **ORDINARY RESOLUTION** confirms and approves the following:

- Section 192E of the Crimes Act 1900 states that a person who, by any deception, dishonestly obtains property belonging to another, or obtains any financial advantage or causes any financial disadvantage, is guilty of the offence of fraud, with maximum penalty of imprisonment for 10 years.
- Section 316 of the Crimes Act 1900 (NSW) makes the knowing concealment of information relating to a "serious indictable offence" a crime punishable by up to 2 years imprisonment.

Section 4 of that Act defines "serious indictable offence" to mean an indictable offence that is punishable by imprisonment for life or for a term of 5 years or more. Subject to certain exclusions this generally includes the fraud offences in Part 4AA of that Act as well as stealing and similar offences in Part 4.

Section 316(1) states if a person has committed a serious indictable offence and another person who knows or believes that the offence has been committed and that he or she has information which might be of material assistance in securing the apprehension of the offender or the prosecution or conviction of the offender for it fails without reasonable excuse to bring that information to the attention of a member of the Police Force or other appropriate authority, that other person is liable to imprisonment for 2 years.

- There is currently no maximum elapsed time period for indictable offences in NSW.
- After owners corporation was forced to repay \$8,800.00 to CHU Insurance for insurance claims in first quarter of 2017 for events that occurred in 2012/2013. Fraud Report E65804633 dated 9<sup>th</sup> September 2017 was submitted, with Police investigations and interviews starting in late 2017 and continuing in 2018.

Issues in the investigations include alleged false statements by BCS Strata Management in Statutory Declaration to CTTT on 19<sup>th</sup> April 2013, four different versions of the same Standard Costs Agreement with Solicitor Mr. Adrian Mueller, secret change of the insurance policy for SP52948 and then claiming amount of \$24,919.31 (plus GST) for alleged "defense" of Lot 3 at CTTT in 2012/2013 without owners corporation full disclosure or decision at any general meeting, false written statements to CTTT by selective EC members, invoice paid for insurance premiums to Gallagher Australia on 21<sup>st</sup> September 2012 in amount of \$84,414.77, which was 74.38% higher than in September 2011, losses to Lot 158 in amount of close to \$29,000.00.

Solicitor Mr. Adrian Mueller, was actively involved in the creation of the Statutory Declaration, against the wishes of owners corporation or approval at any general meeting or disclosure, caused excessive courier costs to owners corporation in amount of \$851.56 on 19<sup>th</sup> April 2013 and was based on rushed EC meeting seven days ahead of scheduled date, without owners being able to respond, comment, or complain.

- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include Motion at AGM 2017 confirm payments to Solicitor Mr. Adrian Mueller, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4):

Solicitor Mr. Adrian Mueller was engaged 14 times in period March 2012 and September 2016 without disclosure of expenses in any financial statement given to owners corporation at general meetings.

Solicitor Mr. Adrian Mueller was paid \$63,318.77 (GST included), with full details for 2017 and 2018 undisclosed to owners by Waratah Strata Management:

Creditor Name	Doc. Ref. No.	Doc. Date	Doc. Total	Chq. Date
J S MUELLER & CO SOLICITORS	78428	5/09/2016	\$1,100.00	19/09/2016
J S MUELLER & CO SOLICITORS	69179	28/10/2014	\$742.50	30/10/2014
J S MUELLER & CO SOLICITORS	67976	29/07/2014	\$484.00	31/07/2014
J S MUELLER & CO SOLICITORS	65777	6/03/2014	\$242.00	25/03/2014
J S MUELLER & CO SOLICITORS	65461	14/02/2014	\$20,624.75	05/03/2014
J S MUELLER & CO SOLICITORS	65483	18/02/2014	\$6,980.28	04/03/2014
J S MUELLER & CO SOLICITORS	64289	8/11/2013	\$484.00	19/11/2013
J S MUELLER & CO SOLICITORS	61904	24/06/2013	\$1,452.00	04/07/2013
J S MUELLER & CO SOLICITORS	61223	10/05/2013	\$11,568.72	20/05/2013
J S MUELLER & CO SOLICITORS	60252	6/03/2013	\$1,452.00	22/03/2013
J S MUELLER & CO SOLICITORS	58762	15/11/2012	\$13,986.12	27/11/2012
J S MUELLER & CO SOLICITORS	57380	10/08/2012	\$1,504.40	22/08/2012

J S MUELLER & CO SOLICITORS	56130	28/05/2012	\$198.00	31/05/2012
J S MUELLER & CO SOLICITORS	55003	13/03/2012	\$2,500.00	27/03/2012

Mr. Adrian Mueller was allegedly engaged to provide legal advice at an estimated cost of \$3,500.00 + GST and review Lot 158 owner's motions for AGM 2017 at an estimated cost of \$1,750.00 + GST (documented in the Minutes of EC meeting on 20<sup>th</sup> July 2017).

- For missing documents that are critical to proving false statements by BCS Strata Management staff in Statutory Declaration to CTTT on 19<sup>th</sup> April 2013, Police requested access to strata files from BCS Strata Management and Solicitor Mr. Adrian Mueller (separate Motion for AGM 2018 deals with Waratah Strata Management).
- Based on latest update from the Police dated 22<sup>nd</sup> August 2018, none of the parties provided copies of eight emails, with statement that Mr. Adrian Mueller attempted to find them but failed to locate them.
- Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015, under the Legal Profession Uniform Law, the following applies to legal profession:

4.1 A solicitor with designated responsibility for a client's matter, must ensure that, upon completion or termination of the law practice's engagement:

14.1.1 the client or former client, or

14.1.2 another person authorised by the client or former client, is given any client documents, (or if they are electronic documents copies of those documents), as soon as reasonably possible when requested to do so by the client, unless there is an effective lien.

14.2 A solicitor or law practice may destroy client documents after a period of 7 years has elapsed since the completion or termination of the engagement, except where there are client instructions or legislation to the contrary.

- As 7-year period expires in February 2021 (from the completion of the law practice engagement in 2014), owners corporation issues an order to Solicitor Mr. Adrian Mueller to give all SP52948 documents to current Secretary of the Executive Committee at no cost, who shall ensure that Police receives the copies of missing eight emails.
- If Solicitor Mr. Adrian Mueller fails to comply, owners corporation shall raise a complaint with the Office of the Legal Services Commissioner (OLSC), which already had a caution against Mr. Adrian Mueller for not following legal practices in SP52948 in 2013, and raise a further complaint with the Department of Fair Trading.

**Motion: Order to Waratah Strata Management to produce eight copies of emails to Police and Lot 158**

The Owners Corporation SP52948 by **ORDINARY RESOLUTION** confirms and approves the following:

- Fraud Report E65804633 dated 9<sup>th</sup> September 2017 initiated Police investigations and interviews in late 2017 and during 2018.

For missing documents that are critical to proving false statements by BCS Strata Management staff in Statutory Declaration to CTTT on 19<sup>th</sup> April 2013, Police requested access to strata files from Waratah Strata Management Mr. Robert Crosbie.

Waratah Strata Management provided incomplete strata files and none of the eight crucial documents (copies of emails) were included.

- Two written reports from BCS Strata Management claim that all SP52948 were provided to Waratah Strata Management before end of their contract on 30<sup>th</sup> January 2017:

Representative of Pica Group (parent company of BCS Strata Management) in email on 13<sup>th</sup> February 2018.

BCS Strata Management Licensee-in-Charge Dr. Adrian Carr in email on 20<sup>th</sup> July 2018.

- Strata Schemes Management Act 2015, Section 180 prescribes that certain records of strata plan must be retained for period of seven years, and that includes all correspondence and emails.
- In accordance with Strata Schemes Management Act 2015, Section 181, owners corporation issues a request to Waratah Strata Management to produce eight emails no later than 14 days after the notice. The emails shall then be handed over to the Police.
- Owners corporation shall hand over copies of eight missing emails (and other strata documents as listed for the members of the EC and Waratah Strata Management) that lot 158 did not get in spite of paid document search on 13<sup>th</sup> June 2017.
- Owners corporation acknowledges that refusal to provide the documents might incur additional costs at owners expense and force NCAT Tribunal's orders.

111. In FY 2018, Solicitor Adrian Mueller charged SP52948 \$5,550.00 for services which include attempt to silence Lot 158 through "Bylaw Prohibiting Unreasonable Communication". None of the owners were notified about the amount of costs incurred by the Solicitor at any time during 2018 and 2019. The registration of the By-Laws was illegal because there was no quorum to approve them at the general meeting:

11/12/2017	Bylaw Prohibiting Unreasonable Communications	J.S. Mueller & Co	750.00	Paid	DE	84104	000323
11/12/2017	Advice on Motions Requested by	J.S. Mueller & Co	1,750.00	Paid	DE	83412	000323
11/12/2017	Advice on Communications by	J.S. Mueller & Co	2,700.00	Paid	DE	83410	000323
11/12/2017	Advice on Communications by	Waratah Strata Management	275.00	Paid	DE		000332

112. Just several days after another submission of Solicitor Adrian Mueller misconduct was sent to Office of Legal Services Commissioner (submission "HIGHLY-SENSITIVE COMPLAINT: Continuous professional misconduct by Solicitor Adrian Simon Mueller and failure to co-operate in Police Event E65804633" on 24 January 2019, Waratah Strata Management allegedly suffered from ransomware attack and lost most of SP52948 files permanently on 2 February 2019. Office of Legal Services Commissioner case number was 56561.

Waratah Strata Management waited for almost one and a half months before notifying owners, but did not provide full details (including ransom paid by an unknown entity):



12 March 2019

Strata Owners

Dear Sir/Madam,

**RE: WARATAH STRATA MANAGEMENT – IT INCIDENT**

On 1 February, Waratah Strata Managements computers were impacted by ransomware, a type of malicious software. This resulted in access being denied to both our server and external cloud-based backup. For the first 3 weeks in February we had data recovery experts attempt to decrypt our files, which they were successful in doing, however they found that the files have been corrupted and are unreadable. We also appointed a legal firm that specialises in dealing with cyber security issues, so received the best advice and assistance that is available.

It is important to note that there is no evidence that any of the information contained in our system, including the financial and statutory Owners Corporation information such as owners details, has been accessed or taken by any third party. All indications are that the third party who deployed the ransomware only accessed the IT system to install the malicious software, but this is something that will be reviewed closely as we continue to investigate the incident. This incident has also been reported to the police via the Australian Cybercrime Online Reporting Network (ACORN).

Please be assured the owners corporation funds are completely secure – it is only our records that have been impacted.

On Friday 22 February we had our server returned to us and have since been restoring our lost data from a backup from mid-2018. We have employed additional staff and been working very long hours 7 days a week to re-enter all of the financial transactions and update the owners corporations records.

This process is now mostly complete, however as much of this data has been manually re-entered we acknowledge that there may have been mistakes made during this process. We are therefore providing the attached Owner Details Form and ask that you complete and return this form to us as soon as possible to ensure your current details are correctly recorded.

Enclosed is your notice for the levy due on 1 May. We have chosen to post this levy notice to you, even if you usually receive levy notices by email, until we are confident all owners details are correct.

Again, we ask you to carefully check the levy amount owing and if you have any concerns, we ask you to provide a copy of the original levy notices that were sent to you along with a covering letter/email to indicate the amounts of concern and proof of payment of those amounts, so we are able to investigate this for you. We will ensure that no owner incurs any additional charges as a result of errors that have occurred during the re-entering of the financial records.

We also advise that all of the data that was stored on our online portal has been lost. We will be able to restore a lot of this information, but not all of the historical records. For those owners that have been attempting to access the portal, this should now be accessible using your previously advised access details, or if new access details have been entered for your lot, a new web access letter is enclosed.

We request some understanding if we are unable to immediately take your phone calls or return emails at this time. We have over 5 weeks of work to catch up on that we have not been able to attend to until this week. We will be doing everything we can to respond to your requests for assistance as soon as possible.

We sincerely apologise for any inconvenience that has been caused by this issue.

Yours faithfully,

**WARATAH STRATA MANAGEMENT PTY LTD**

*Robert Crosbie*

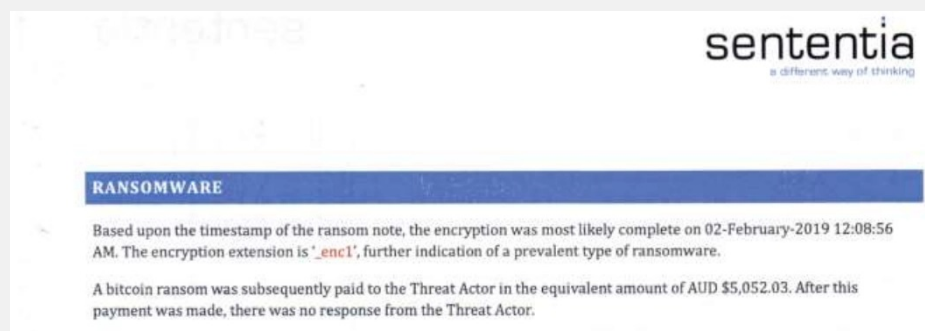
Director

Sententia conducted an investigation (at undisclosed costs), but their report was never provided to owners. In addition, Sententia's report had many loopholes and when they were approached for an explanation four times, they stayed silent. An alleged ransomware attack against Waratah Strata Management occurred on 1 February 2019. Sententia report, dated 26 March 2019 stated (undisclosed by Waratah Strata Management to 218 owners):

- An alleged ransomware attack against Waratah Strata Management occurred on 1 February 2019. Sententia report, dated 26 March 2019 stated (undisclosed by Waratah Strata Management to 218 owners):
- Their investigation had limited access to event logs.
- Deeper understanding of the exact actions by the threat actor was not possible due to lack of evidence and an incomplete audit trail.
- Based on incomplete logs, the encryption attack most likely occurred on 2 February 2019 at 12:08:56 hours.
- Threat actor achieved brute-force success with the Administrator account on server WSMHS1, a malicious toolkit was then used to create www account on 1 February 2019 at 11:58:53 hours.
- Incomplete audit logs from terminal services show the first login occurred at 23:59 hours on 1 February 2019 and session ended at 03:33 hours on 2 February 2019.
- There was no conclusive evidence to suggest any data exfiltration occurred (simply based on available usage data logs that did not take into account possibility of using data compression for file transfers, or selective file transfers of targeted files).
- In timeframe from 1 February 2019 up to around 15 and 17 February 2019, Waratah Strata Management was still at high risk, due to unpatched servers and continuous attacks with brute-force access. Lack of remediation actions to close all non-essential inbound ports continued to create risks.
- Bitcoin ransom was subsequently paid by a third-party known to Waratah Strata Management to the threat actor in the equivalent amount of \$5,052.03.
- After this payment, there was no response from the threat actor.
- The attack allegedly occurred due to misconfigured routers that allowed RDP protocol.
- Sententia did not take into account possibility of data being transferred through screenshots, which is one of the valid attacks.
- Waratah Strata Management recovered their data via a re-image procedure (mostly untrue, as per separate admission by Waratah Strata Management to Fair Trading and owners in emails with different explanations).

- It was recommended to use more secure method of connectivity, such as MFA VPN.
- Sententia report in March 2019 does not report any data losses in Office 365 or Azure cloud, therefore no record of files being destroyed by ransomware attack on Microsoft public systems that Waratah Strata Management uses for SP52948.
- Lot 158 obtained official statement by Rockend that they provide the lookatmystrata.com.au domain as a service. However, Rockend does not store, hold, access, or release any information related to that domain. All such information is held, exclusively managed, and complete responsibility of Waratah Strata Management.
- Lot 158 obtained official statement by Microsoft that they had never been notified about data loss and/or ransomware attack in Office 365 that keeps emails for waratahstrata.com.au.
- Microsoft also stated that had anybody reported loss of emails in Office 365, Microsoft would have had ability to restore them within 90 days after the incident. That obviously did not happen as Microsoft seemingly has no record of such actions.
- Microsoft found no trace of any complaint, ticket, or report for data losses for waratahstrata.com.au in Office 365 during 2019 or 2020.
- The only event related to waratahstrata.com.au was ticket in June 2019 (case number 14941752) - problem with sending emails.
- Microsoft was not involved in any investigation of alleged ransomware attack or data losses that Waratah Strata Management reported for emails in Office 365.

Ransomware attack did not disclose to owners that some alleged benefactor paid ransom to the threat actor in the equivalent amount of \$5,052.03). It does not make any sense that ransom was paid but files were lost:



Waratah Strata Management ignored request to inform SP52948 owners if committee members knew about two data losses on 11 August 2019.

Waratah Strata Management ignored request to inform SP52948 owners if committee members knew about two data losses on 17 February 2020.

SP52948-Waratah-Strata-Management-failed-to-include-alleged-ransomware-attack-in-agenda-for-EC-meeting-13Mar2019

Official agenda was not sent to all owners and failed to comply with SSMA 2015 for minimum advance notice to owners:

SP52948-agenda-for-EC-meeting-scheduled-for-21Mar2019-sent-on-18Mar2019

Extract from committee minutes on 2 May 2019 blaming ransomware attack in February 2019 for gas heating levies lost for financial year that ended on 31 August 2018 (six months before the alleged ransomware attack).

113. This Motion was exact copy of the Motion published two years earlier and not actioned at significant losses in owners corporation funds:

SP52948-extract-from-Minutes-of-committee-meeting-held-on-20Jul2017-confirming-gas-heating-levies-not-paid-in-previous-years-and-seeking-general-meeting-to-approve-unpaid-levies

Extract from committee minutes on 20 July 2017 confirming outstanding gas heating levies for previous years and admitting that they were not going to enforce their payments, with alternative idea to allow general meeting to waive the unpaid levies and 10% simple interest for each year

Waratah Strata Management sent to an owner another explanation for lost strata files due to ransomware attack before document search on 9 May 2019

Waratah Strata Management notified Fair Trading NSW with different story three months after the event on 17 May 2019

SP52948-request-to-disclose-information-submitted-to-Waratah-Strata-Management-if-EC-members-were-notified-about-

114. Multiple attempts to find more details of the ransomware attack and another data loss were left unanswered by Waratah Strata Management (14 July 2019 and 10 August 2019, as examples)

SP52948-Waratah-Strata-Management-failed-to-respond-to-inquiry-about-alleged-data-breach-and-loss-of-strata-files-17Feb2020

Microsoft actually advises against paying any ransom and here is their statement:

*As part of Microsoft's Detection and Response Team (DART) Incident Response engagements, we regularly get asked by customers about "paying the ransom" following a ransomware attack.*

*Unfortunately, this situation often leaves most customers with limited options, depending on the business continuity and disaster recovery plans they have in place.*

*The two most common options are either to pay the ransom (with the hopes that the decryption key obtained from the malicious actors works as advertised) or switch gears to a disaster recovery mode, restoring systems to a known good state. The unfortunate truth about most organizations is that they are often only left with the only option of paying the ransom, as the option to rebuild is taken off the table by lack of known good backups or because the ransomware also encrypted the known good backups. Moreover, a growing list of municipalities around the U.S. has seen their critical infrastructure, as well as their backups, targeted by ransomware, a move by threat actors to better guarantee a payday.*

115. Lot 158 sent multiple requests to Waratah Strata Management and committee members to stop wasting owners' funds on legal costs, as per one example of email on 19 June 2019:

**Subject:** Re: WITHOUT PREJUDICE: Request to stop wasting strata funds on legal expenses that cannot succeed - 18Jun2019

**From:**

**Date:** 19/6/19, 12:48 am

**To:** Robert Crosbie

**CC:** Frank Tallaridi

One more item to make this rock-solid:

There are two types of the documents that are in alleged eight emails sought by the Police, Fair Trading NSW, and Lot 158:

- Emails where Solicitor Adrian Mueller was a direct sender or a recipient (they are much more difficult to "misplace or "lose" because they are part of work files),
- Emails from the owners corporation and strata managers that were allegedly provided to Solicitor Adrian Mueller when he prepared Statutory Declaration for the strata manager. In theory, they are possibly easier to displace but nevertheless difficult to justify, especially since they had to be processed electronically for the generation of the Statutory Declaration dated 19 April 2013.

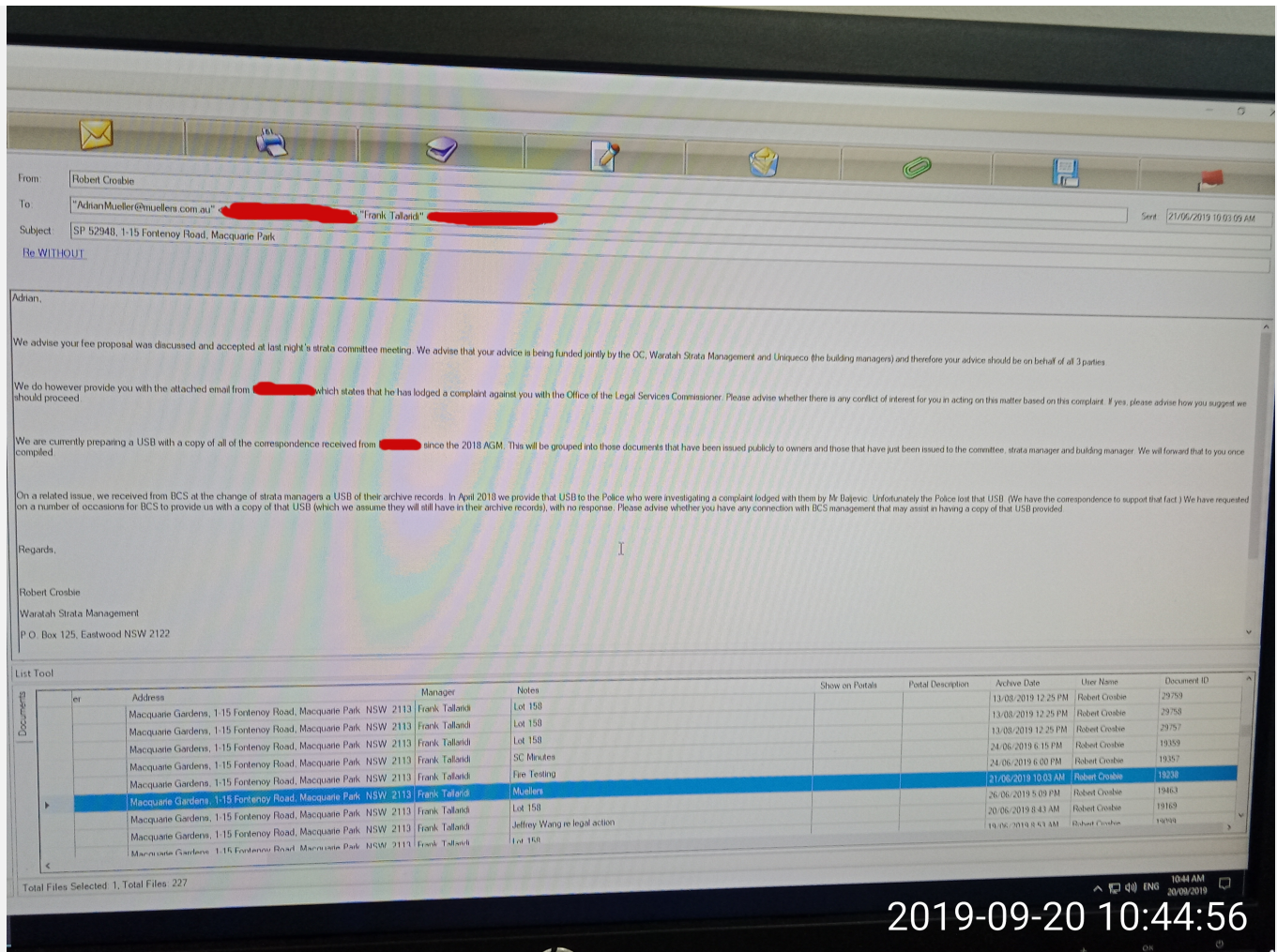
Had Solicitor Adrian Mueller really lost those files (for whatever reason), he would still be guilty as per Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015, under the Legal Profession Uniform Law, 14.1.2, and would have to notify both the Police and the owners corporation about such an event. No client would appreciate loss of files, especially in event when CHU Insurance forced SP52948 to repay \$8,800.00 for insurance claims made in 2012/2013. Solicitors must follow strict rules in the maintenance of client files.

SP52948 owners have not received any notice from Solicitor Adrian Mueller about his negligence (if the files are really "lost or misplaced permanently") since April/May 2018!

Attorney-General Greg Smith (2011-2014), who tabled the Law Society's report in parliament, said it was important that lawyers were held to account.

116. Under pressure from Lot 158, Waratah Strata Management sent secret email to Solicitor Adrian Mueller on 21 June 2019 asking for help to obtain copy of allegedly lost USB key with SP52948 strata files from BCS Strata Management and warning about Lot 158 complaint with Office of Legal Services Commissioner:





117. Lot 158 request to urgently pass information to Fair Trading NSW and Office of Legal Services Commissioner about deliberate and premeditated plan by Waratah Strata Management to exclude Lot 158 Motions for AGM 2017 was ignored by Waratah Strata Management on 23 June 2019



<b>From:</b>	SP52948 owner
<b>To:</b>	Robert Crosbie, Frank Tallaridi
<b>Subject:</b>	Request to urgently pass this to Fair Trading NSW and Office of Legal Services Commissioner - Deliberate and premeditated plan by Waratah Strata Management to exclude Lot 158 Motions for AGM 2017
<b>Date:</b>	23/6/19, 1:39 pm

Hi,

Passage of time reveals everything.

- Solicitor Adrian Mueller gave Waratah Strata Management direct advice on how to manipulate Lot 158 Motions for AGM 2017 by suggesting and providing template document on 23 August 2017 (attachment "SP52948-Solicitor-Adrian-Mueller-advice-on-23Aug2017-how-to-remove-Motions-by-Lot-158-and-prevent-them-for-AGM2017-by-simply-sending-letter-to-Lot-158-on-the-day-of-agenda-being-sent-in-October-2017-which-would-not-give-enough-time-for-amended-agenda.webp"):

- Not to provide any reasons for excluding Lot 158 Motions from general meeting,
- Send the letter to Lot 158 on the date of agenda for AGM 2017 so that no time is given for agenda amendments.

Waratah Strata Management prepared letter rejecting Lot 158 Motions as early as 23 August 2017 (attachment "SP52948-Waratah-Strata-Management-secret-letter-to-exclude-Lot-158-Motions-23Aug2017.webp") but sent it to Lot 158 (with only letterhead change and the date) as late as 10 October 2017 (AGM was scheduled for 24 October 2017).

Waratah Strata Management "pretended" to continue to engage with Lot 158 in regards to AGM Motions (as seen from below email dated 27 September 2017 and the follow-ups till early October 2017), with clear plan to ignore Lot 158 since August 2017.

- Solicitor Adrian Mueller was clearly worried about weak Special By-Law he proposed for "Unreasonable Communication" that stands no legal grounds and will be removed at the next general meeting. He charged \$2,500.00 (plus GST) for preparing the by-law and reviewing Lot 158 Motions. The "Unreasonable Communication" By-Law does not comply with Section 139(1) of SSMA 2015 (provides that a by-law must not be "harsh, unconscionable or oppressive"). A person entitled to vote on a motion making a by-law may apply to the NSW Civil and Administrative Tribunal (NCAT) for an order invalidating such a by-law. Attachment "SP52948-Solicitor-Adrian-Mueller-worried-about-weak-by-law-prohibiting-unreasonable-communication-10Oct2017.webp".
- Waratah Strata Management "won" the contract at AGM 2017, without tender, in spite of poor performance in period 1 February 2017 to 24 October 2017, hiding evidence of three EC members not being financial due to unpaid second gas levies, six proxies directly held in Robert Crosbie's name of which only one had direct instruction not to approve Waratah Strata Management contract renewal, increasing the value of the contract with disclosure and against the owners decision at AGM 2016, and much more.
- Office of Legal Services Commissioner provided assurance that they would act promptly and force Solicitor Adrian Mueller to provide famous eight emails to SP52948 if requested officially on 1 March 2019 (the eight emails are allegedly "lost" in SP52948 files and on the USB given to Police and relate to Statutory Declaration given to CTTT on 19 April 2013). Lot 158 now request that Waratah Strata Management send this request to OLSC immediately.

Lot 158 will allow Waratah Strata Management to provide evidence of this email being forwarded to Fair Trading NSW by Tuesday afternoon, 25 June 2019.

Lot 158 will allow Waratah Strata Management to provide evidence of this email being forwarded to OLSC by Tuesday afternoon, 25 June 2019.

# 118. Waratah Strata Management secret handwritten notes at committee meeting on 5 September 2019 engaging Solicitor Adrian Mueller without general meeting to prepare Deed for Lot 158 that was ready and presented to Lot 158 at AGM on 17 October 2019 (with plan to spend up to \$150,000.00 to prevent Lot 158 from investigating mismanagement in the complex):

Legal Action Motion on Agm Agenda to  
 Approve Legal Action on Barrister \$150,000  
 Have Mueller prepare a Deed so he can  
 sign at meeting to cease further action  
 DB targeting SC because they are on  
 SC not as individuals, so SC should fund  
 not owners to be made aware of impact  
 on value of their units  
 Financial Reports Tabled Approval to cease  
 Accrual Adjustments To put note in Account  
 & get Auditors to deal with transactions  
 Chairmans Report to discuss positive cashflow  
 & budget  
 Gas Charges - All Gas Charges that have been  
 involved have been paid. OC Not willing to  
 take action to audit past amounts issued &  
 paid.  
 Lift Block Co D Close to finished by end Sept  
 Disability P.T.B.C.  
 Council - Jeffray to advise progress with council  
 Insurance - Get new Valuations before renewal  
 Energy Action - Approved  
 Skylight Quote. Approved.  
 Close 7.25pm  
 Chairmans Report Vote of Thanks Steve Carbone  
 Agm 17/10/19

119. Solicitor Adrian Mueller letter to O'Brien Criminal & Legal Solicitors on 14 November 2019, refusing access to strata files for Lot 158. Owners have never received or been given access to Adrian Mueller's signed Standard Costs Agreements:

The representatives of the owners corporation are mindful of the expense of defamation litigation. However, they consider that litigation is likely to be the only way to resolve the dispute between the parties particularly if [redacted] do not enter into the Deed of Settlement and Release that was given to them. The representatives of the owners corporation certainly have the fortitude to litigate.

Turning to the requests set out in your letter, the representatives of the owners corporation have instructed us to reject them. They do not see why [redacted] entry into the deed should be conditional on those requests being met.

[redacted] has undertaken repeated inspections of the records of the owners corporation. The representatives of the owners corporation consider that all available records of the owners corporation were made available to [redacted] during those inspections as a result of which if [redacted] does not have any records that he desires that is because those records are likely not available.

Equally importantly, if [redacted] is truly prepared to confine his communications to matters relating to the maintenance and repair of lot 158 only, and to cease and desist from disseminating what the representatives of the owners corporation consider to be defamatory material about them, then what is the purpose of [redacted] pressing for the records to be produced to him?

In the circumstances, the representatives of the owners corporation do not consider that there is any merit in [redacted] request for those records to be provided to him and they are not prepared to agree to the request.

In it, Solicitor Adrian Mueller also said:

*Lot 158 has undertaken repeated inspections of the records of the owners corporation. The representatives of the owners corporation consider that all available records of the owners corporation were made available to Lot 158 during those inspections as a result of which if Lot 158 does not have any records that he desires that is because those records are likely not available.*

*Equally importantly, if Lot 158 is truly prepared to confine his communications to matters relating to the maintenance and repair of lot 158 only, and to cease and desist from disseminating what the representatives of the owners corporation consider to be defamatory material about them, then what is the purpose of Lot 158 pressing for the records to be produced to him?*

*In the circumstances, the representatives of the owners corporation do not consider that there is any merit in Lot 158 request for those records to be provided to him and they are not prepared to agree to the request.*

*The strata legislation imposes on the owners corporation a duty to maintain and repair the common property. This means there is no need for the Deed to be amended to give Lot 158 the same rights in relation to the maintenance of his property as the rights that are enjoyed by other owners.*

120. On 24 April 2020, O'Brien Criminal & Legal Solicitors on behalf of Lot 158 sent request to Waratah Strata Management and committee members to respond on many issues, including legality of Waratah Strata Management contract. Reply was never received.

O'Brien Criminal & Legal Solicitors requested answers on the following:

- Legality of committee (quest on unfinancial owners)
- Lot 158 valid member of the committee
- Defamation
- Offer for mediation between Lot 158 and SP52958 without costs

We are further instructed that during the last three years at least two of those candidates have not been legally elected to the committee as they have not been financial.

As you are aware, in order for a candidate to be legally elected they must not be liable for any outstanding levies or unpaid interest on invoices. Further, in order for a candidate to legally vote on committee decisions they must not be liable for any outstanding levies or unpaid interest on invoices at the time of the vote.

We are instructed that over the last three years, certain persons have voted on committee decisions when they have not been in the required financial position. This would have the effect of making those decisions invalid.

Further, pursuant to the combined effect of the *Strata Schemes Management Act 2005* and Section 76(1)(b) of the *Interpretation Act 1987*, in order for the committee meetings to be lawful, all owners must receive advanced written notice of the meetings and the agenda. We are instructed that this has not occurred.

This legality of any contracts that have been entered into by the committee is also questionable if they have been signed by non-financial members.

If you disagree with the above then please provide evidence that all of the committee members were financial throughout 2017, 2018 and 2019 and that all owners received advanced written notice of meetings and the agenda of those meetings.

Please also provide evidence that the current contracts with Waratah Strata Management Pty Ltd and Uniquenco Pty Ltd have been signed by legally elected members of the committee.

#### DOCUMENTS REQUIRED TO BE AVAILABLE FOR INSPECTION

Unredacted Email from Solicitor Adrian Mueller to Branch Manager Paul Banoob dated 5<sup>th</sup> of July 2012 at 04:41 pm (listed in Statutory Declaration to CTTT by strata manager Peter Bone dated 19<sup>th</sup> of April 2013)

Unredacted Email from Branch Manager Paul Banoob to Strata Manager Garry Webb dated 5<sup>th</sup> of July 2012 at 04:57 pm (listed in Statutory Declaration to CTTT by strata manager Peter Bone dated 19<sup>th</sup> of April 2013)

Unredacted Email to EC members from BCS Strata Management Garry Webb dated 6<sup>th</sup> of July 2012 at 08:32 am (listed in Statutory Declaration to CTTT by strata manager Peter Bone dated 19<sup>th</sup> of April 2013)

Unredacted Email to EC members and two staff members at BCS Strata Management from SP52948 Chairperson dated 6<sup>th</sup> of July 2012 at 12:48 pm (listed in Statutory Declaration to CTTT by strata manager Peter Bone dated 19<sup>th</sup> of April 2013)

Unredacted Email to EC members and two staff members at BCS Strata Management from SP52948 Chairperson dated 9<sup>th</sup> of July 2012 at 10:18 pm (listed in Statutory Declaration to CTTT by strata manager Peter Bone dated 19<sup>th</sup> of April 2013)

Unredacted Email from Solicitor Adrian Mueller to BCS Strata Management Peter Bone dated 16<sup>th</sup> of July 2012 at 6:52 pm (listed in Statutory Declaration to CTTT by strata manager Peter Bone dated 19<sup>th</sup> of April 2013)

Unredacted Email from BCS Strata Management Peter Bone to Solicitor Adrian Mueller dated 25<sup>th</sup> of July 2012 at 2:13 pm (listed in Statutory Declaration to CTTT by strata manager Peter Bone dated 19<sup>th</sup> of April 2013)

Unredacted Email from BCS Strata Management Debbie Downes to EC members dated 16<sup>th</sup> of April 2013 at 1:52 pm (listed in Statutory Declaration to CTTT by strata manager Peter Bone dated 19<sup>th</sup> of April 2013)

Cash Book Receipts By Receipt Date for FY 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, and FY 2020 up to 24 April 2020

Cash Book Payments By Account Code for FY 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, and FY 2020 up to 24 April 2020

Income Tax Returns for FY 2012, 2013, 2014, 2015, 2016, 2017, 2018, and 2019

Copies of all yearly fire safety inspection reports By Eagle Fire Protection for FY 2013, 2014, 2015, 2016, 2017, 2018, 2019, and 2020 (in 2020, report from audit in January and March are required)

Copy of full audit of second gas connections for 218 lots, including who conducted it, the dates of gas disconnections with names of certified plumbers, and the date of the report

Register of items excluded from common-property (examples: exclusive rights to common property given to Lot 3 and Lots 136/137, windows and frames with double-glaze glass, windows and frames with solar heating panels, air-conditioning units on the balconies, five private lattices in front of townhouses Lot 194, Lot 197, Lot 199, Lot 202, and Lot 216, pergola modifications, second gas connections, and others)

Contact details of financial auditors for FY 2017 and 2018

Copies of signed audits that must have been completed before AGMs in FY 2017 and 2018

Copies of multiple quotes for hot water system in Block C costing above \$30,000.00 that Uniquenco Property Services allegedly obtained in 2017

Copies of explicit delegation of duties of Treasurer, Secretary, and Chairperson to strata managers at BCS Strata Management and Waratah Strata Management in any period between October 2012 and 24 April 2020

Copies of all the correspondence with the Police in regards to USB key handed over to them by Waratah Strata Management in period March 2018 to 24 April 2020

Copy of the signed Deed of Release with BigAir ISP and other applicable legal documents after their eviction from the complex

Evidence of who made decision to undercharge BigAir ISP and at which legally-convened meeting

Copies of all invoices and work completed in relation to water leak damages in the complex in period 2012 to 31<sup>st</sup> of March 2020

Evidence that Lot 3 and Lots 136/137 comply with Special By-Laws in regards to public liability insurance for FY 2013, 2014, 2015, 2016, 2017, 2018, 2019, and 2020

Copies of detailed AGM agenda including quorum calculations for financial owners for FY 2014, 2015, 2016, 2017 and 2018, and 2019

Invoices for all work related to painting and major repairs in 2017/2018 (including work done on townhouses allegedly costing \$92,950.00)

Email from Teagan Robards at BCS Strata Management to Gary Mills and Lilia Olson with the spreadsheet of charges for Lot 181 second gas connection dated 17<sup>th</sup> of July 2015 at 12:51 pm (Subject line: "RE: S & T Pogorelsky - Gas charges paid from 1998 to 2015 - Strata Plan 52948")

Email from Stan Pogorelsky with the spreadsheet for Lot 181 paid levies for second gas connection to Gary Mills at BCS Strata Management on 10<sup>th</sup> of June 2015 at 4:28 pm

All invoices for second gas connection for FY 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, and FY 2020 up to 31<sup>st</sup> of March 2020

Details of reimbursements to townhouses for private water and gas usage for FY 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, and FY 2019 up to 31<sup>st</sup> of March 2019

ThyssenKrupp Elevator correspondence and invoices in 2015, 2016, 2017, and 2018

ThyssenKrupp Elevator service reports for 2015, 2016, 2017, and 2018

Evidence of tender correspondence for elevator contract renewal in 2018

Copy of current elevator contract with Liftronics

Details of all elevator faults and risks in period 2014 to 24 April 2020

Uniqeco Property Services monthly reports for FY 2016, 2017, 2018, 2019, and 2020 up to 24 April 2020

Evidence of electricity supply contract renewal in 2018, including details of when and who approved it

Copy of current electricity supply contract

Copy of current contract with Waratah Strata Management

Copy of all SP52948 correspondence with Solicitor Adrian Mueller and Crittenden in period 2012 to 24 April 2020

All insurance claims in period August 2013 to 24 April 2020

Correspondence between EC members and strata managers at BCS Strata Management and Waratah Strata Management in period February 2017 to 24 April 2020

Correspondence between CHU Insurance and their lawyers and SP52948 in regards to repayments for insurance claims in 2012/2013 for alleged "Defence of Lot 3"

Correspondence between BCS Strata Management and Waratah Strata Management in period November 2016 to 31<sup>st</sup> of March 2020 (including requests to BCS Strata

Management to provide additional copies of SP52948 strata files due to allegedly lost files on USB key)

All correspondence between Waratah Strata Management with the Police and other applicable enforcement agencies in regards to computer break-in in period 1<sup>st</sup> of February 2019 to 24 April 2020

All correspondence between EC members, strata managers and the Police for any other security or legal matter in period 2014 to 24 April 2020

Copies of recovery of funds from parties responsible for frequent damages to car entrance gate in period 2013 to 24 April 2020

Copies of correspondence with owners for all By-Laws compliance issues in period October 2012 to 24 April 2020 (smoking, safety of tenants, and so on)

Copies of all correspondence with Ryde Council and Fire and Rescue NSW in period October 2014 to 24 April 2020

Copies of:

- Warranty of Workmanship from Townview Painting Services for painting project in 2017/2018
- Dulux warranty for painting project in 2017/2018
- Liftronic warranty for elevator upgrades in 2019

Evidence that Uniqeco Property Services and Waratah Strata Management have no more than 10 staff

Evidence that current contracts with Uniqeco Property Services and Waratah Strata Management were signed by legally-elected members of the EC

Evidence of chequebook payments for all periods before 14<sup>th</sup> of February 2017

Evidence of Police Event, reports to Microsoft and other applicable agencies in relation to alleged ransomware attack at Waratah Strata Management in February 2019

Evidence of who paid for alleged ransomware attack at Waratah Strata Management in February 2019

Extracts from bank transactions for FY 2017, 2018, 2019, and 2020 up to 24 April 2020

121. Extract from committee meeting on 7 May 2020, where they gave direct orders to Solicitor and his barrister to respond to Lot 158 legal team: O'Brien Criminal & Civil Solicitors.

Strata Plan SP52948 committee meeting dated 7 May 2020, as organised by Waratah Strata Management, did not satisfy requirements of Strata Schemes Management Act 2015 (SSMA), Schedule 2, Section 4 (1) and (2), and section 7, and Interpretation Act 1987 (NSW).

Agenda was created on 1 May 2020 and scheduled for 7 May 2020. Excluding date of creation, meeting date, and the weekend, ONLY three days were allowed for delivery of notice to all owners. As per Strata Roll dated 31 January 2017, more than 32% of owners had requested postal delivery of notices – that figure is hidden from owners by Waratah Strata Management in subsequent years.

Agenda was not detailed, as required by SSMA 2015 and was not sent to Lot 158.

Solicitors failed to comply with alleged decision at this meeting, and owners were never informed about it:

- Legal advice regarding Lot 158, including acceptance of barrister fee proposal - Subject to amendments required to the content of the costs agreement, the strata manager is instructed to sign the costs agreement under common seal for and on behalf of the Owners Corporation. The barrister is also to be requested to respond to the letter received from O'Brien Criminal & Civil Solicitors on behalf of

122. On 27 July 2020, Lot 158 sent request to Waratah Strata Management and committee members to authorise actions for proper management of the complex, including recovery of funds from Solicitor Adrian Mueller.

Extracts from the email:



<b>From:</b>	SP52948 owner
<b>To:</b>	John Gore, Moses Levitt, Jeffery Wang, Stan Pogorelsky, Thomas Karolewski, Marianna Paltikian
<b>Subject:</b>	CONFIDENTIAL OFFER: SP52948 Your actions today and tomorrow
<b>Date:</b>	27/7/20, 10:37 am

Good morning,

This email justifies your direct notification, without strata managers at present.

What a lovely day it is.

Last week, Waratah Strata Management claimed they let CCTV footage that we requested of Lot 181 to be "overwritten" and only under strong pressure, after one month of silence, provided CCTV recording for event related to Lot 147 dated 10 June 2020.

But, that is just a tip of the iceberg.

Based on below brief statements, we are giving you an opportunity to take proper actions now:

a) Provide written statements to Lot 158 in next 24 hours that you were personally misled about these events by Solicitor Adrian Mueller in the past and that you did not know about fraudulent activities, and now offer full support for investigations to proceed.

b) Provide written authorization to Lot 158 in next 24 hours to represent owners corporation and deal with:

Office of Legal Services Commissioner case 56561 (professional misconduct by Solicitor Adrian Mueller)

Police Event E65804633

Fair Trading NSW cases (there are seven of them)

Pending NCAT case (if you persist in defending the indefensible)

c) Provide written authorization to Lot 158 in next 24 hours to assist with access to any strata file that has been listed in previous document searches.

d) Issue immediate order to Solicitor Adrian Mueller to reimburse owners corporation for all SP52948, of which \$26,500.00 will promptly have to be repaid to Lot 158 (plus around \$4,000.00 for legal costs).

e) Notify owners about these events.

f) As a friendly advice, you might consider if your position as committee member is justifiable any longer.

Regards,

Since 24 April 2020, you have been requested to respond to our Civil and Criminal lawyers and failed to attend free mediation at Fair Trading NSW. You declined to inform owners about the details of the request and also failed to provide each and every owner with copy of the Standard Costs Agreement within 14 days for all legal engagements in last three years (practice you did so many times with Solicitor Adrian Mueller too).

You are herewith provided with two pieces of information (we now have much more) that prove:

a) Solicitor Adrian Mueller intentionally provided false and misleading statements to Fair Trading NSW and hid information from them to hamper their investigations

b) Solicitor Adrian Mueller intentionally provided false and misleading statements to CTTT and hid information from them to hamper their investigations

c) Solicitor Adrian Mueller intentionally mislead District Court to obtain personal benefits and protect selective group of owners and strata managers

d) Mr. Peter Bone intentionally provided false and misleading statements in Statutory Declaration to CTTT (the document was written by Solicitor Adrian Mueller)

e) Mr. Peter Bone intentionally provided false and misleading statements in Affidavit to District Court

f) Lot 181 and Lot 147 provided misleading and false statements in their submissions to CTTT, without disclosure that they were unfinancial and could not be legal members of the committee

g) Lot 218 provided misleading and false statements in his submissions to CTTT

h) Other owners and previous members members of the committee provided false and misleading statements to CTTT

Here are two pieces of crucial evidence:

**Solicitor Adrian Mueller illegally represented SP52948 in SM12/1537 and CTTT SCS 12/50460**

1. CTTT SCS 12/50450 interim order to stop Annual General Meeting 2012 due to serious misconduct was dismissed until after Annual General Meeting and CTT forced SCS 12/50460 to go to mediation on 10 September 2012

2. Lot 158 sent email to Solicitor Adrian Mueller about facsimiles sent to CTTT SCS 12/32675, 12/50450, and 12/50460 on 19 October 2012

3. NSW Fair Trading forwarded files to BCS Strata Management Peter Bone in CTTT SCS 12/50460 mediation events on 17 January 2013

4. On 6 March 2013, Solicitor Adrian Mueller sent letter to Fair Trading NSW claiming that he was legally representing SP52948 in mediation case SM12/1537 (precursor to CTTT file SCS 12/50460)

5. Solicitor Adrian Mueller was paid invoices which included work for mediation case SM12/1537 and CTTT SCS 12/50460

6. In spite of all involvement, Solicitor Adrian Mueller claimed not knowing about CTTT SCS 12/50460 in email sent to BCS Strata Management on 6 May 2013

7. Solicitor Adrian Mueller issued Standard Costs Agreement for CTTT SCS 12/50460 on 6 May 2013

8. Letter from CTTT in file SCS 12/50460 sent to Solicitor Adrian Mueller about non-compliance order for SP52948 Secretary and Solicitor on 7 May 2013

9. Solicitor Adrian Mueller invoice charging for involvement in CTTT SCS 12/50460 mediation events at NSW Fair Trading on 10 May 2013 without owners corporation approval or Standard Costs Agreement

10. Lot 158 repeated complaints about false representation by Solicitor Adrian Mueller and expenses in CTTT SCS 12/50460 on 13 May 2013
11. Lot 158 provided summary of owner's votes against any engagement of Solicitor Adrian Mueller to BCS Strata Management on 17 May 2013
12. BCS Strata Management provided false statement to a single owner about owners corporation engaging Solicitor Adrian Mueller not BCS Strata Management and planning how to recover Solicitors costs if CTTT case is rejected on 22 May 2013
13. BCS Strata Management requesting extension of time to respond in CTTT SCS 12/50460 and confirmed that Solicitor engagement had to be approved at Extraordinary General Meeting on 24 May 2013
14. Lot 158 repeated requests to Solicitor Adrian Mueller to return files due to false representation by Solicitor Adrian Mueller in CTTT SCS 12/50460 on 1 June 2013
15. Lot 158 Folder 12 submission in CTTT SCS 12/50460 with evidence of illegal engagement of Solicitor Adrian Mueller on 4 June 2013
16. Lot 158 request to access strata files for CTTT file SCS 12/50460 on 5 June 2013
17. Lot 147 email confirming he was fully aware of Lot 158 rights to access strata files on 5 June 2013
18. Lot 158 request to BCS Strata Management and committee about their refusal to organise general meeting and accept owners wishes for CTTT file SCS 12/50460 on 6 June 2013
19. SP52948 CTTT SCS 12/50460 decision on 2 September 2013
20. EC member confirming Solicitor Adrian Mueller not engaged for CTTT 12/50460 on 2 September 2013. Email recipients are in full evidence of Lot 158

**Mr. Peter Bone and Solicitor Adrian Mueller statement to CTTT (other references to false statements will not be shared with you yet!)**

21. Statutory Declaration by Mr. Peter Bone (written by Solicitor Adrian Mueller) on 19 April 2013:

*On 25 July 2012 the Standard Costs Agreement was signed by Gary Webb on behalf of the owners corporation. I know Gary Webb personally. He is employed by Raine & Horne Strata - Sydney. Mr. Webb was the person at Raine & Horne Strata Sydney who throughout July 2012 was the person responsible for the day to day strata tile management of the owners corporation. I have seen Mr Webb sign document and I recognise the signature on the costs agreement as his signature.*

*On 25 July 2012 I emailed to Adrian Mueller a copy of the Standard Costs Agreement signed by Gary Webb.*

22. Solicitor Adrian Mueller letter to CTTT on 19 April 2013:

*On 25 July 2012 the then strata manager of the owners corporation, Gary Webb, signed the lawyer's costs agreement on behalf of the owners corporation and the signed costs agreement was emailed to the lawyer by the strata manager on that day.*

(EC meeting on 22 August 2012 introduced Mr. Peter Bone as new strata manager!)

- [20200723-Re\\_52948 - CCTV USB footage-32914.pdf](#)
- [Lot-158-legal-demand-to-SP52948-24April2020.pdf](#)
- [SP52948-Standard-Costs-Agreement-with-Solicitor-Adrian-Mueller-16Apr2013.webp](#)
- [SP52948-Standard-Costs-Agreement-with-Solicitor-Adrian-Mueller-19Apr2013.webp](#)
- [SP52948-Standard-Costs-Agreement-with-Solicitor-Adrian-Mueller-28Aug2012.webp](#)
- [SP52948-Standard-Costs-Agreement-with-Solicitor-Adrian-Mueller-29Jan2013.webp](#)
- [VOLUNTARY FORENSIC ANALYSIS Solicitor Standard Cost Agreement signed on 25 July 2012.msg](#)

No reply forced NCAT case 20/33352 to start.

123. On 12 August 2020, in preparation for NCAT case 20/33352 to ensure Tribunal has proper information, Lot 158 sent request to Waratah Strata Management to retrieve all files from Solicitor Adrian Mueller (as per original submission on 10 May 2013):

**Subject:** RE: OFFICIAL REQUEST on 10 May 2013: Immediate return of private property and reimbursement of Invoice on 6 March 2013

**From:** [REDACTED]

**Date:** 12/8/20, 2:48 pm

**To:** "frank@bcms.com.au", Robert Crosbie <[REDACTED]>

On behalf of SP52948, and the avoid unnecessary expenses for owners for reprinting files in current NCAT case, you are requested to issue order to Solicitor Adrian Mueller to return property that doe snot belong to him and he did not have rights to obtain it.

Thank you

----- Forwarded Message -----

**Subject:** RE: OFFICIAL REQUEST on 10 May 2013: Immediate return of private property and reimbursement of Invoice on 6 March 2013

**Date:** Tue, 14 May 2013 19:15:00 +1000

**From:** [REDACTED]

**Reply-To:** [REDACTED]

**Organization:** [REDACTED]

**To:** Adrian Mueller <[REDACTED]>

**CC:** Peter Bone <[PeterB@bcms.com.au](mailto:PeterB@bcms.com.au)>, Paul Banoob <[REDACTED]>

Hello,

Frankly, I do not care what you say nor you make any sense. What you say is worthless.

CTTT and the DFT were notified this week.

124. On 18 September 2020, in preparation for NCAT case 20/33352 to ensure Tribunal has proper information, Lot 158 sent request to Waratah Strata Management and committee members about illegal engagement of Solicitor Adrian Mueller in past CTTT cases.
125. Solicitor Adrian Mueller was actively involved in the following reviews of Lot 158 Motions, without his Standard Costs Agreements being listed on owners corporation's web portals by BCS Strata Management and later Waratah Strata Management, without full disclosure to owners, and without Standard Costs Agreement being presented to each and every owner:
- Lot 158 Motions for Annual General Meeting 2012
  - Lot 158 Motions for Annual General Meeting 2014
  - Lot 158 Motions for Annual General Meeting 2015
  - Lot 158 Motions for Annual General Meeting 2016 (Solicitor Adrian Mueller charged \$1,100.00 GST incl. for reviewing Lot 158 Motions on 5 September 2016)
  - Lot 158 Motions for Annual General Meeting 2017
  - Lot 158 Motions for Annual General Meeting 2018
  - Lot 158 Motions for Annual General Meeting 2019
  - Lot 158 Motions for Annual General Meeting 2020
  - Lot 158 Motions for Annual General Meeting 2022
126. Solicitor Adrian Mueller refused to respond to email sent to Supreme Court and him on 20 April 2022:



2.1. Special attachment "Strong-case-for-Solicitor-Adrian-Mueller-being-assessory-before-and-after-insurance-fraud-five-times-CTTT-12-32675-and-NCAT-20-33352.pdf" documents (in another folder under URL sent to Cost Assessor and Costs Applicant on 5 April 2022) contains irrefutable evidence that Solicitor Adrian Mueller failed to assist District Court in case 2013/360456 on 31 January 2014 where strata manager Peter Bone provided false statements in his Affidavit and Solicitor had such knowledge. Solicitor Adrian Mueller presented Affidavit by BCS Strata Management Peter Bone, knowing that it contained false information about Applicant never being denied access to strata files, which is easily confirmed by following evidence:

12 November 2012

15 November 2012 (complaint to BCS Strata Management that Respondent failed to honour Agreement signed by Solicitor Adrian Mueller during CTTT hearing on 17 October 2012)

8 March 2013

5 June 2013

17 October 2013

3. Solicitor Adrian Mueller failed to acknowledge that committee meeting held on 3 April 2022 did not satisfy requirements of Strata Schemes Management Act 2015 (SSMA), Schedule 2, Section 4 (1) and (2), and section 7 and Interpretation Act 1987 (NSW) (pages 15-16 of Costs Respondent's document dated 5 April 2022). Solicitor Adrian Mueller failed to acknowledge that in his invoices he claimed he had received authorisation from strata manager to lodge Supreme Court case on 1 March 2022 - two days before committee meeting. There is no evidence of such email and no evidence that Costs Applicant made such decision at any legally-compliant meeting. Solicitor Adrian Mueller failed to respond to Costs Respondent's paragraphs 17.1), 23), 23.1), and 23.2) in document dated 5 April 2022.
4. Solicitor Adrian Mueller continues to avoid presentation of alleged email from strata manager dated 23 October 2020. The attachment he provided is not an unredacted version of the email and contains no information about alleged attachments sent in that email. Solicitor Adrian Mueller failed to respond to Costs Respondent's paragraphs 57.1), 57.3), and 57.5) in document dated 5 April 2022. Solicitor Adrian Mueller did not provide evidence of legality of Annual General Meeting 2020 (owners who were financial to vote and overall conduct of the meeting).
5. Solicitor Adrian Mueller failed to address six versions of the alleged legal costs, including evidence that he was approved for these costs at any legal meeting.
  - 5.1. Solicitor Adrian Mueller continues to mislead Cost Assessor. Waratah Strata Management provided these figures in the Agenda for Annual General Meeting in October 2021 on pages 14 to 17 (for account code 153200) and they are not part of NCAT proceedings:

#### Addendum

9. Costs Respondent collected all forensic evidence that Costs Applicant (and Solicitor Adrian Mueller) did not make any attempt to log into secure web site to verify Respondent's evidence in period from 5 April 2022 until this afternoon. Costs Respondent collected all forensic evidence that Costs Applicant (and Solicitor Adrian Mueller) did not make attempts to send any email or letter to Respondent in period from 5 April 2022 until this afternoon. For the sake of evidence, Cost Assessor logged 938 times into secure website and took significant interest in Respondents' evidence.
10. Solicitor Adrian Mueller failed to provide any evidence of his alleged work and avoided direct questions about six versions of his legal costs which conflicted with owners corporation documents provided to owners before Annual General Meeting 2021.
11. Solicitor Adrian Mueller did not provide any evidence of his alleged correspondence with NCAT and he was directly challenged to do it, especially since document search at NCAT on 8 March 2022 found no such evidence. Solicitor Adrian Mueller failed to respond to Costs Respondent's paragraphs 41.2) in document dated 5 April 2022.
12. Solicitor Adrian Mueller failed to provide information about sudden insurance claim in amount of \$19,758.14 (on 25 March 2022 Waratah Strata Management listed revenue from insurance claims in amount of \$19,758.14 in Income & Expenditure Report):
  - Income & Expenditure Report listed all legal costs in period from 1 September 2021 to 21 March 2022 as \$380.00 and no insurance claims for legal costs,
  - Income & Expenditure Report listed all legal costs in period from 1 September 2021 to 24 March 2022 as \$4,128.71 and no insurance claims for legal costs,
  - Income & Expenditure Report suddenly listed all legal costs in period from 1 September 2021 to 25 March 2022 as \$4,128.71 and insurance claims for legal costs as 19,758.14.
13. Additional evidence for continuous misconduct by Solicitor Adrian Mueller which was prepared in anticipation of Solicitor's response:

<https://www.vk2cot.id.au/CA2022-70683/Adrian-Mueller-brief-comparison-between-two-CTTT-NCAT-cases/>

127. Waratah Strata Management, committee members, Solicitor Adrian Mueller, and even NCAT, refused to provide full evidence of alleged correspondence with Solicitor Adrian Mueller not only to Lot 158, but also Office of legal Services Commissioner and Supreme Court Costs Assessor:

[SP52948-sixth-escalation-of-request-for-access-to-copies-of-Solicitor-Adrian-Mueller-files-and-audio-recordings-of-Hearings-in-case-NCAT-20-33352-30Aug2021](#)

[SUMMARY-NCAT-REGISTRY-file-viewing-in-case-SC-20-33352-on-8Mar2022](#)

Waratah Strata Management undisclosed plan to Supreme Court for premeditated legal costs claims for Solicitor Adrian Mueller confirming that Lot 158 requests were completely ignored on 16 October 2020:

[SP52948-undisclosed-plan-to-Supreme-Court-for-premeditated-legal-costs-claims-for-Solicitor-Adrian-Mueller-confirming-that-Lot-158-requests-were-ignored-16Oct2020](#)

Solicitor Adrian Mueller lied to NCAT in his only three-page submission on 18 January 2021 which was prepared a month



earlier on 14 December 2020 (he was well informed that access to all evidence was provided to committee members and strata manager, but they chose to ignore it since 25 September 2020):

[SP52948-Solicitor-Adrian-Mueller-false-statement-to-NCAT-SC-20-33352-prepared-on-14Dec2020-but-served-to-Tribunal-month-later-on-18Jan2021](#)

Solicitor Adrian Mueller also lied to the Tribunal when asked if all six members of the committee (the Respondent) were valid defendants when he knew that Mr. Moses Levit resigned in November 2020, three months before the Hearing.

Solicitor Adrian Mueller failed to disclose to the Tribunal that he secretly, like in CTTT case SCS 12/32675, tried to force undue influence upon Lot 158 by sending another defamation threat:

- 2.2. The Defendant undertakes to the Plaintiff and will undertake to the Court that he will not make future publications about the Plaintiff, whether by means of the internet or otherwise, except with the prior leave of the Court, which carry the following meanings about the Plaintiff, or meanings which do not differ in substance from those meanings, or which differ only in that they are more specific versions of those meanings:
- (a) the Plaintiff had failed to declare conflicts of interest;
  - (b) the Plaintiff had acted dishonestly;
  - (c) the Plaintiff had knowingly made false statements;
  - (d) the Plaintiff had engaged in criminal conduct;
  - (e) the Plaintiff had behaved unethically;
  - (f) the Plaintiff had engaged in mismanagement;
  - (g) the Plaintiff had conspired to provide false statements;
  - (h) the Plaintiff had engaged in fraud; or
  - (i) the Plaintiff had misappropriated funds.

Solicitor Adrian Mueller failed to disclose that Waratah Strata Management gave the Solicitor instructions to review all Lot 158 files (including website) on 23 October 2020, which Solicitor Adrian Mueller ignored:

[SP52948-alleged-email-from-Waratah-Strata-Management-to-Solicitor-Adrian-Mueller-23Oct2020](#)

From: Robert Crosbie <[redacted]@waratahstrata.com.au>  
Sent: Friday, 23 October 2020 12:23 PM  
To: Adrian Mueller <[redacted]@muellers.com.au>  
Subject: SP 52948, 1-15 Fontenoy Road, Macquarie Park

Adrian,

We advise your fee proposal to act for the Owners Corporation in the NCAT Application lodged by Lot 158 [redacted] has been accepted at last night's AGM.

Attached is a copy of various correspondence that has been received to date in this matter. Also attached is access to a website set up by [redacted] to provide access to his documentation.

We ask you to notify NCAT that you will now be representing the OC and whether you require any further time to review and respond to the application.

Now that you have been formally appointed, we ask you to respond to our email sent on 7/10/20 regarding the Legal Defences insurance claim.

Regards,

Robert Crosbie  
Waratah Strata Management  
P.O. Box 125, Eastwood NSW 2122

Solicitor Adrian Mueller failed to disclose that Waratah Strata Management ignored Lot 158 request to allow all owners to access evidence in NCAT case SC 20/33352, SCS 12/32675, and SCS 12/560460 since 25 September 2020 (this was presumably Mr. Robert Crosbie's approach to "democracy"):

[SP52948-Waratah-Strata-Management-refused-to-provide-owners-with-access-to-evidence-for-NCAT-case-SC-20-33352-on-25Sep2020](#)

Subject: CONFIDENTIAL: NCAT SC 20/33352 website access  
From: SP52948 owner  
To: Stuart Greene, Robert Crosbie  
Date: Fri, 25 Sep 2020 12:13:39 +1000

|  
Not to be shared with any party without disclosure.

No files can be shared with any party without disclosure.

This information can and should be provided by the Secretary of the committee to ALL owners as part of AGM 2020 agenda (safest option is to publish it on Waratah Strata web portal).

URL <https://www.vk2cot.id.au/NCAT-20-33352/>

Login sp52948user

Password <redacted>

For security reasons, and in compliance with laws, access is monitored at all times

128. Apart from \$8,800.00 which insurance company forced SP52948 to repay for Solicitor Adrian Mueller's costs in CTTT case SCS 12/32675 and SCS 12/50460 in 2017 (four years after the event), in 2022 and 2023, owners corporation must repay \$19,498.54 for similar costs in NCAT case SC 20/33352:

Payments for what is alleged to be premeditated fraudulent actions by Solicitor Adrian Mueller for his alleged legal costs in NCAT case SC 20/33352  
Waratah Strata Management is forced to repay insurance company in amount of \$19,758.14  
(soon Police Event will be submitted as a follow-up to Crime Stoppers Event 648467)  
SP52948 committee members and Waratah Strata Management shall be included as accessories

Receipt number	Print receipt
N270127422354	
From account	Transaction date
	02/07/22
To Account	Amount
Strata Plan 52948 182-222 Macquarie Bank Limited	\$5,000.00
Transaction description	
Payment #1 for blackmail by Adrian Mueller CA 2022/70683	

Receipt number	Print receipt
N292724452061	
From account	Transaction date
	27/09/22
To Account	Amount
Strata Plan 52948 182-222 Macquarie Bank Limited	\$5,000.00
Transaction description	
Payment #2 for blackmail by Adrian Mueller CA 2022/70683	

Receipt number	Print receipt
N210334711532	
From account	Transaction date
	03/01/23
To Account	Amount
Strata Plan 52948 182-222 Macquarie Bank Limited	\$5,000.00
Transaction description	
Payment #3 for blackmail by Adrian Mueller CA 2022/70683	

Receipt number	Print receipt
N240335234636	
From account	Transaction date
	03/04/23
To Account	Amount
Strata Plan 52948 182-222 Macquarie Bank Limited	\$5,000.00
Transaction description	
Payment #4 for blackmail by Adrian Mueller CA 2022/70683	

129. BCS Strata Management, Waratah Strata Management, and Solicitor Adrian Mueller have history of destroying evidence or deleting SP52948 strata files. Few examples:

[SP52948-Lot-158-uncovered-strata-files-destroyed-for-CTTT-and-District-Court-legal-files-10Aug2019](#)

[Solicitor-Adrian-Mueller-staff-Carol-Pollard-deleted-SP52948-owner-email-without-reading-SECOND-RESPONSE-owner-v-SP52948-NSW-Civil-and-Administrative-Tribunal-File-No-SC-20\\_33352-Service-of-Costs-Assessment-Application-and-Bill-of-Costs-24Mar2022](#)

[Solicitor-Adrian-Mueller-staff-Carol-Pollard-deleted-SP52948-owner-email-without-reading-OLSC-case-CAS005901-Request-for-Solicitor-Adrian-Mueller-to-respond-with-evidence-9May2022](#)

[Waratah-Strata-Management-Stuart-Greene-deleted-SP52948-owner-email-without-reading-documents-for-delivery-to-respondent-for-NCAT-20-33352-28Feb2023](#) (two and half years after the original email was sent to him!)

130. [Solicitor Adrian Mueller was sole creator of discriminatory Special By-Law "Unreasonable Communications" which was used six times since 2018 to prevent Lot 158 from enforcing proper management of SP52948 complex, whilst, at the same time, ensuring that Solicitor Adrian Mueller obtains excessive personal financial benefits \(estimate: around \\$150,000.00 so far\):](#)

Special By-Law "Unreasonable Communications" that was specifically and exclusively created and prepared by Solicitor Adrian Mueller to prevent Lot 158 from raising any concerns about mismanagement of the complex was directly used four times before NCAT Hearing in case SC 20/33352 and two times after the Hearing (strata managers, committee members and Solicitor Adrian Mueller failed to disclose it to the NSW Fair Trading and Tribunal in NCAT case 20/33352) and by not attending the Hearing influenced the Tribunal to ignore Lot 158 evidence and prevent them from cross-examining the Respondent:

- 17 The hearing proceeded. Neither party sought an adjournment. [redacted] gave oral evidence expounding his complaints against certain strata committee members; the management of the owners corporation; and Mr Mueller. The owners corporation did not cross examine [redacted]. As discussed previously, the owners corporation did not call any witnesses. Both [redacted] and Mr Mueller then made oral submissions.
- 28 The Tribunal did not investigate any of the links provided by [redacted], as it would have been clearly procedurally unfair to the owners corporation for the Tribunal to view material which had not been filed and served in the proceedings and which the owners corporation could not see at the hearing as the hearing was conducted by telephone.

**Explicit usage of "Unreasonable Communications" by the Respondent:**

1. **Motions 18 and 19 at AGM on 18 October 2018, with unqualified and baseless threats, preventing owners to have access to Lot 158 Motions and vote on them**
2. **Motion 4 at committee meeting on 2 May 2019**
3. **Waratah Strata Management secret email to Fair Trading NSW on 20 May 2019 (11 days before Lot 158 was scheduled for document search in strata manager's office), confirming that Lot 158 was not allowed to have access to strata files including Strata Roll – email was fully supported by all members of the committee**
4. **Motion 4 at committee meeting on 20 June 2019**
5. **Motion 3 at committee meeting on 29 April 2021, with further false statements and threats against Lot 158**
6. **Motion 6 at committee meeting on 10 February 2022 (notice of meeting not sent to all owners and minutes not published on notice board).**