

27 February 2022

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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).

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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.

False statements are a very serious offence 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.

Solicitor Adrian Mueller is prepared to go take extreme steps to protect own interests, which include examples from 2017, 2018, 2019, 2020, and 2021:

- Unredacted evidence in document “SP52948-premeditated-plan-by-Solicitor-Adrian-Mueller-to-prevent-Applicant-Motions-and-disallow-owners-to-vote-at-AGM-2017.pdf”.

Unredacted evidence in document “Solicitor-Adrian-Mueller-prevented-Lot-158-Motions-and-disallowed-owners-to-vote-AGM-2018.pdf”.

- In October 2019, Solicitor Adrian Mueller, secretly attempted to force Mrs. LOT 158 (in addition to Mr. LOT 158) to sign alleged Deed of Agreement under duress, by asking them to declare that strata managers, committee members, and building manager did nothing wrong and that they should retract all statements, which was, of course, rejected. The Deed was presented in person by Waratah Strata Management to Mr. LOT 158 in person at the general meeting, which meant that Solicitor’s engagement was not approved with owners corporation decision at any legally convened meeting or by valid members of the committee, and that Solicitor prepared the 11-page Deed before the general meeting.
- Secret handwritten notes of committee meeting by Waratah Strata Management held on 5 September 2019 (one and a half months before the general meeting on 17 October 2019) show what was approved at the meeting (including advanced preparation of Solicitor Adrian Mueller’s Deed of Agreement that Mr. LOT 158 was supposed to sign at general meeting):

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 OC should fund
hot owners to be made aware of impact
on OC value of their units

Financial Reports Tabled Approval to cease
Accrual Adjustments To put Note in Account
to get Auditors to deal with transactions
Chairman's 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.

to be finished by end Sept

Written notes also confirmed that committee members and strata manager were not willing to pursue unpaid levies for gas heating.

- Different information was presented to owners in official minutes of the meeting dated 5 September 2019:

MATTERS ARISING FROM PREVIOUS MEETING

The following matters arising from the previous meeting were discussed as follows:

- **Additional Gas Point Charges** - The strata manager advised that a detailed analysis had been carried out of Lot 181 additional gas point charges and payments made. The strata manager is satisfied that all gas charges that have been invoiced by the respective strata management companies have been paid, apart from \$18.34. A further \$110.00 of gas charges have not been invoiced by BCS Strata Management and therefore not paid by Lot 181. Resolved that a motion is to be included on the 2019 AGM agenda to allow this issue to be considered by the Owners Corporation. The motion is to recommend that as lot owners cannot be expected to pay charges that have not been invoiced to them, that many lot owners may have changed, that the number of lots that have the additional gas point may have changed and that as most other owners will not be willing or able to provide the detailed financial history of the gas charges to their lot, it is not feasible to estimate the amount owing for any unpaid gas charges and that no further action is to be taken on this issue.
- **Lift Refurbishment Project** - It is noted that Block C & D lift upgrades are on track to be completed before the end of September 2019 and that Blocks A & B upgrades will commence in October 2019.
- **Disability Parking Space** - A suitable location for the installation of a disabled parking space has not yet been determined.
- **Council Maintenance of Parkland** - Jeffrey Wang is to be requested to provide an update on his discussions with Council on this issue.
- **Legal Advice regarding Lot 158** - Resolved that a motion is to be included on the 2019 AGM agenda requesting Owners Corporation approval to allocate a budget of \$150,000 to appoint a barrister to commence defamation proceedings against [redacted]. The strata committee discussed that the substantial number of emails being publicly distributed by [redacted] and retained within the Owners Corporation's records have raised serious allegations against various owners in their capacity as strata committee members; are likely to cause significant negative impact on the value of all units due to the perceived disharmony discouraging potential buyers; and that the Owners Corporation cannot allow this to continue without commencing this legal action.

Unredacted evidence in document "SP52948-written-notes-for-EC-meeting-by-Waratah-Strata-Management-about-Solicitor-Adrian-Mueller-Deed-preparation-for-AGM-2019-and-confirmation-committee-members-not-willing-to-audit-unpaid-gas-levies.png".

Unredacted evidence in document "SP52948-minutes-EC-meeting-5Sep2019-published-12Sep2019.pdf".

Unredacted evidence in document "Adrian-Mueller-LOT 158-Deed-of-Agreement-17Oct2019.pdf".

Unredacted evidence in document "SP52948-used-Unreasonable-Communications-Special-By-Law-against-Lot-158-six-times-without-disclosure-to-NCAT-SC-20-33352.pdf".

- On 21 October 2020, Mr. LOT 158 sent two emails to Solicitor Adrian Mueller who again attempted to issue secret defamation threats BEFORE pending NCAT case (in this event it was SC 20/33352). Solicitor did not notify NCAT about this threat. In the first email, Mr. LOT 158 said, amongst the others:

After Waratah Strata Management and committee members rejected to attend FREE mediation at Fair Trading NSW in March 2020, refused to respond to numerous attempts to reason with them, NCAT case 20/33352 was opened. The submitted files include firm evidence of Solicitor Adrian Mueller's past actions.

Letter of demand was sent to number of members of the committee and Waratah Strata Management to refute or confirm allegations with evidence.

You are requested to send your email/letter to O'Brien Criminal & Civil Solicitors and confirm the following as well:

a) That you have been approved to represent SP52948 strata committee and Waratah Strata Management at legally convened general meeting before today.

b) That owners and Lot 158 have been provided with signed Standard Costs Agreement at any time since 5 September 2019, when you were asked to create so-called Deed before AGM 2019 and owners corporation approval.

We thank you for your co-operation and support for NCAT case with full disclosure.

Solicitor Adrian Mueller never responded.

Unredacted evidence in document "20201021-Re_Defamation Concerns Notice (JSM 34813)-1252.pdf".

- In the second email on 21 October 2020, Mr. LOT 158 made the repeated request to Solicitor Adrian Mueller to respond to O'Brien Criminal & Civil Solicitor's letter dated 24 April 2020:

YOU ARE REQUESTED to PROVIDE RESPONSE to all demands dated 24 April 2020, as per attachment.

The response with evidence must arrive by tomorrow before AGM 2020.

Solicitor Adrian Mueller never responded.

Unredacted evidence in document "20201021-IMMEDIATE RESPONSE REQUESTED for Lot 158 demands dated 24Apr2020-1254.pdf".

Unredacted evidence in document "LOT 158Letter24April.pdf".

The actions of Solicitor Adrian Mueller seriously affected Mrs. S.P.B. (Mrs. LOT 158) health and in spite of him having knowledge of her problems, he continued to act unprofessionally with deliberate intentions to cause harm and financial losses.

For more than 10 years Solicitor Adrian Mueller, as witness of actions by strata managers and committee members of strata plan SP52948, and collaborator in those actions, conducted a concerted, continuous campaign to vilify and denigrate Mr. LOT 158 and his wife. Courts can be very harsh towards menacing campaigns without justification, as penalty in amount of \$1.5m in case Adam and Charif Kazal vs Rodric David and his company Thunder Studios prove.

Due to Mrs. LOT 158's multiple health conditions (including previous strokes), she is even excused from Jury duty.

- The crucial points in the Statement of Ethics and its acknowledgement of the lawyer's role of upholding the rule of law and serving the community in the administration of justice vis-à-vis the solicitor's duty to the court are that lawyers should:
 - Act frankly and fairly in all dealings with the courts.
 - Be trustworthy.
 - Serve their clients' interests competently.
 - Communicate clearly with their clients.
 - Keep the affairs of clients confidential, unless otherwise required by the law.
 - Maintain and defend the rights and liberty of the individual.
 - Avoid any conflict of interest.
- Crucially, in terms of the "balancing act" which must be observed in putting the lawyer's duties into context, the Statement of Ethics states:

"In fulfilling this role, lawyers are not obliged to serve the client's interests alone, if to do so would conflict with the duty which lawyers owe to the Court and to serving the ends of justice."

- These are referred to in Rules 21 and A34:

If at any time before judgement is delivered in any proceedings a practitioner's client admits to having given materially false evidence or to having tendered a false or misleading document in the proceedings the practitioner must:

- Advise the client that the Court should be informed of the false evidence and request the client's authority to inform the Court and correct the Court record and,
- If the client refuses to provide that authority, withdraw from the proceedings immediately and terminate the retainer.

A practitioner whose client informs the practitioner that the client intends to disobey a Court's order must:

- Advise the client against that course and warn of its dangers,
- Not advise the client how to carry out or conceal that course but
- Not inform the Court or the opponent of the client's intention unless the client has authorised the practitioner to do so beforehand or the practitioner believes on reasonable grounds that the client's conduct constitutes a threat to any persons safety.

- At common law, no privilege arises in respect of a communication made for a purpose that is contrary to the public interest; that is, where the communication is made in furtherance of an illegal or improper purpose, whether or not the legal adviser knows of that purpose.

For the purposes of the illegal or improper purpose principle, the relevant distinction is between a communication made for the purpose of being guided or helped in achieving an illegal or improper purpose, which is a non-privileged communication, as compared with a communication made for the purpose of seeking advice in relation to past conduct, which may be privileged.

However, a communication in relation to past conduct will not be privileged if the communication is for the purpose of covering up a crime or fraud, or for the purpose of defeating or delaying recovery by the victims of a crime or fraud.

The illegal or improper purpose principle covers all forms of fraud and dishonesty, including fraudulent breach of trust, fraudulent conspiracy, trickery and 'sham' contrivances, as well as cases of fraud by third parties.

Narrative 1 - Brief of Claims against Solicitor Adrian Mueller

Some of the costs incurred by Solicitor Adrian Mueller for CTTT cases SCS 12/32675, SCS 12/50460, SCS/50737, and District Court case 13/360456, without having legal rights to represent owners corporation SP52948, and in that process assisted in forgery of evidence of his retainers and other documents:

- Four insurance claims paid by CHU Insurance and collected by Solicitor Adrian Mueller through owners corporation SP52948 (GST exclusive):

\$367.64 on 31 August 2012

\$12,714.65 on 7 December 2012

\$1,320.00 on 26 April 2013

\$10,517.02 on 4 June 2013

The claims were for "legal defence of Lot 3" in CTTT case that did not exist in regards to this owner.

Four years later, in March 2017, CHU Insurance forced owners corporation SP52948 to repay \$8,800.00:

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

Fx (02) 9114 9598
www.waratahstrata.com.au

*Pay \$8,800
to CHU*

From: Duncan Stuart
Sent: Wednesday, 11 January 2017 10:47 AM
To: simonbrikha; aiden.odea; Robert Crosbie
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.

- Solicitor Mr. Adrian Mueller was engaged without general meetings and without any Signed Costs Agreement 14 times in period March 2012 and September 2016, without disclosure of expenses in any financial statement given to owners corporation - Solicitor Mr. Adrian Mueller was paid by SP52948 in amount of \$63,318.77 (GST included) for events related to CTTT cases SCS 12/32675, SCS 12/50460, and SCS 13/50737, and District Court case 13/360456:

Cred. Code	Creditor Name	Doc. Ref. No.	Doc. Date	Doc. Total	Chq. Date	Mtd.	Cnl. Chq.	Date Presented
84446	J S MUELLER &	78428	5/09/2016	\$1,100.00	19/09/2016	EFT	N	19/09/2016
84446	J S MUELLER &	69179	28/10/2014	\$742.50	30/10/2014	EFT	N	30/10/2014
84446	J S MUELLER &	67976	29/07/2014	\$484.00	31/07/2014	EFT	N	31/07/2014
84446	J S MUELLER &	65777	6/03/2014	\$242.00	25/03/2014	EFT	N	25/03/2014
84446	J S MUELLER &	65461	14/02/2014	\$20,624.75	05/03/2014	EFT	N	05/03/2014
84446	J S MUELLER &	65483	18/02/2014	\$6,980.28	04/03/2014	EFT	N	04/03/2014
84446	J S MUELLER &	64289	8/11/2013	\$484.00	19/11/2013	EFT	N	19/11/2013
84446	J S MUELLER &	61904	24/06/2013	\$1,452.00	04/07/2013	EFT	N	04/07/2013
84446	J S MUELLER &	61223	10/05/2013	\$11,568.72	20/05/2013	EFT	N	20/05/2013
84446	J S MUELLER &	60252	6/03/2013	\$1,452.00	22/03/2013	EFT	N	22/03/2013
84446	J S MUELLER &	58762	15/11/2012	\$13,986.12	27/11/2012	EFT	N	27/11/2012
84446	J S MUELLER &	57380	10/08/2012	\$1,504.40	22/08/2012	EFT	N	22/08/2012
84446	J S MUELLER &	56130	28/05/2012	\$198.00	31/05/2012	EFT	N	31/05/2012
84446	J S MUELLER &	55003	13/03/2012	\$2,500.00	27/03/2012	EFT	N	27/03/2012

Solicitor Adrian Mueller, when accounting his earnings from owners corporation SP52948 until February 2022, received well above \$100,000.00 through fraudulent representation of owners corporation SP52948.

- Due to fact that two insurers declined to quote in 2012 (one due to repetitive water-related problems which actually introduced \$10,000.00 excess for each and every water-leak damage or exploratory work, and the other due to high legal risks), owners corporation SP52948 was forced to pay for insurance premiums to Gallagher Australia on 21 September 2012 in amount of \$84,414.77, which was 74.38% higher than in September 2011.
- Mrs. LOT 158, on behalf of Mr. LOT 158, paid penalty in amount of \$26,500.00 based solely on Mr. Peter Bone's Statutory declaration which was fully prepared and organised by Solicitor Adrian Mueller.
- Mrs. LOT 158, on behalf of Mr. LOT 158, paid \$2,737.90 to Chambers Russell Lawyers for unnecessary case in District Court case 13/360456 where, the Solicitor's defence was based on false Statutory Declaration by Mr. Peter Bone and false statements by Mr. Peter Bone in his Affidavit.
- Mrs. LOT 158, on behalf of Mr. LOT 158, spent \$700.00 for Mr. LOT 158 being forced to deliver extra folders to Solicitor Adrian Mueller on 18 April 2013 (due to fact that strata manager lost first folder, which was not Mr. LOT 158's responsibility or problem).
- Mrs. LOT 158, on behalf of Mr. LOT 158, spent \$23,445.00 for alleged defamation cases and unnecessary legal advice for defending at NCAT (defamation cases never went to court or settled because they were based on baseless accusations) – the events were initiated by Solicitor Adrian Mueller in period from 21 October 2019 to 9 May 2021:

21 October 2019	\$5,000.00
21 March 2020	\$2,200.00
6 August 2020	\$3,300.00
23 September 2020	\$295.00
28 October 2020	\$3,300.00
29 March 2021	\$3,300.00
9 May 2021	\$6,050.00

- Mrs. LOT 158, on behalf of Mr. LOT 158, paid close to \$3,000.00 on the purchase of new colour laser printer, cartridges, folders, and paper for printing seven copies of files for six members of the committee and NCAT because committee members silently rejected the following plea to provide documents in electronic format, as sent to committee members on 25 September 2020:
 - NCAT allows it in their Procedural Direction 1:
Documents do not need to be served in one of the ways set out above if the receiving party (or their representative) agrees to accept service of the documents by some other means.
 - Saves unnecessary paperwork and waste of natural resources,
 - Avoids unnecessary costs of printing, which we intend to charge owners corporation after we confirm that Lot 158 is legal member of the committee,

4. Some files are color photographs which would not look correct in black-and-white prints and NCAT insists of them being printed one-sided and in colour,

5. Some files are in video format which cannot be printed.

- Owners corporation SP52948 paid \$851.56 secretly on courier expenses for sending handful of files by Solicitor Adrian Mueller to CTTT on 19 April 2013.

All underline statements in this document are available on secure website owned and managed by Mr. LOT 158 who is an IT forensics security expert (access can be provided to all parties involved in investigations). Mr. LOT 158 ran painstaking investigations over eight years and collected close to 60,000 files.

Nobody can or should ignore Mr. LOT 158's efforts, for the sake of all law-abiding citizens:

<https://www.vk2cot.id.au/NCAT-20-33352/>

<https://www.vk2cot.id.au/NCAT-20-33352/Solicitor-Adrian-Mueller-illegal-representation-CTTT-SCS-12-32675/>

<https://www.vk2cot.id.au/NCAT-20-33352/Solicitor-Adrian-Mueller-illegal-representation-CTTT-SCS-12-50460/>

As part of NCAT case 20/33352 in 2020/2021, Solicitor Adrian Mueller, committee members, and strata managers had full access to website, which they declined to use and Solicitor Adrian Mueller coerced Tribunal member to ignore the evidence because the Respondent (strata manager and committee members) chose not to attend the Hearing on 11 February 2021.

Narrative 1 - Unredacted Abridged Evidence (full evidence is on secure website)

- 1) On 2 July 2012, Solicitor Adrian Mueller sent letter to BCS Strata Management, advising of his costs in amount between \$6,600.00 and \$12,100.00 for representing owners corporation SP52948 in Mr. LOT 158's appeal at CTTT in case SCS 12/32675, and also proposed to provide a costs agreement once owners corporation wanted to engage him.

BCS Strata Management processed the letter on 10 July 2012 (stamped date on the first page). This was a letter sent by post - no email:

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
Amciffle NSW 2205
Australia
DX 25315 Rockdale
Tel: 02 9562 1266
Fax: 02 9567 8551

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 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
Enc [redacted]

Per: Adrian Mueller

Liability limited by a scheme approved under Professional Standards Legislation

Unredacted evidence in document "Solicitor-Adrian-Mueller-letter-to-BCS-Strata-Management-advising-on-his-cost-estimates-and-suggesting-to-use-insurance-claims-for-legal-costs-2Jul2012.pdf".

- 2) On 4 July 2012, owners corporation had no funds to pay \$14,056.90, which was approved by strata manager Paul Banoob for creditor code 69633, so BCS Strata Management secretly ordered injection of \$50,000.00 from an MBL account.

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) 9868 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

Unredacted evidence in document "BCS-Strata-Management-hid-information-that-SP52948-had-no-readily-available-funds-to-pay-bills-4Jul2012.htm".

- 3) Alleged committee meeting in Lot 181 unit (Mr. Stan Pogorelsky) on 9 July 2012, who was unfinancial at the time due to unpaid gas heating levies since 1999, with alleged notice of the meeting without any agenda sent to any owner on 6 July 2012, approved engagement of Solicitor Adrian Mueller without owners corporation knowledge:

From: Bruce Copland
Sent: Friday, 6 July 2012 12:48 PM
To: 'GaryW'; 'Jeffrey'; 'jhessink'

'JWARD'; 'mcdonald151'; 'zellew'; 'pogo'
Cc: '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

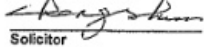
From: Bruce Copland
Sent: Monday, 9 July 2012 10:18 PM
To: 'GaryW((mailto:garyw@sp52948.com.au)'; 'Paul.Banoob((mailto:paul.banoob@sp52948.com.au)';
Cc: 'jeffrey((mailto:jeffrey@sp52948.com.au)'; 'jhessink((mailto:jhessink@sp52948.com.au)'; 'JWARD((mailto:jward@sp52948.com.au)';
'mcdonald151((mailto:mcdonald151@sp52948.com.au)'; 'zellew((mailto:zellew@sp52948.com.au)'; 'pogo((mailto:pogo@sp52948.com.au)';
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

SHWIN 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

That meeting was later found out by CTTT to be completely illegal and to this day (February 2022) agenda and minutes of the meeting do not exist in strata files (online or elsewhere). CTTT was coerced by Solicitor Adrian Mueller to accept alleged committee meeting on 26 April 2013 (which actually happened on 19 April 2013 - six days before its scheduled date) that ratified strata manager's actions dated 25 July 2012:

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.

The meeting had clear and unambiguous intention to present Solicitor's engagement for approval at general meeting after CTTT Directions Hearing (which never occurred).

Unredacted evidence in document "GAS CHARGES 2012 & 2013_20170131132821.pdf" issued invoice for unpaid levies for gas heating for 2012 and 2013 to Mr. Stan Pogorelsky three years later on 15 July 2016, without charging prescribed fee of \$220.00 per year (GST inclusive) and 10% simple interest per each year.

Unredacted evidence in document "SP52948-Lot-147-gas-charges-2012-and-2013-issued-15Jul2016.pdf" issued invoice for unpaid levies for gas heating for 2012 and 2013 to Mr. Moses Levitt three years later on 15 July 2016, without charging prescribed fee of \$220.00 per year (GST inclusive) and 10% simple interest per each year.

The meeting was allegedly attended by six committee members (full committee consisted of nine members), of which two were unfinancial: Mr. Stan Pogorelsky and Mr. Moses Levitt, thus failing the quorum.

Unredacted evidence in document "SP52948-minutes-EC-meeting-9Jul2012.docx".

- 4) On 1 August 2012, strata manager secretly changed the insurance policy 9 for legal defence for the owners corporation SP52948, in spite of warnings of high risks by the insurance broker:

From: Brian Turpin [redacted]
Sent: Wednesday, 1 August 2012 3:33 PM
To: Mark Thirgood
Subject: Strata Plan 52948 - Policy 9 legal defence costs

2

Our Ref NH201212589

Good afternoon Mark.

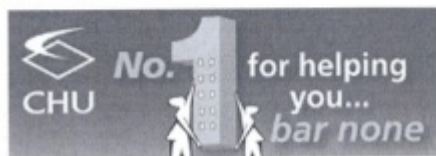
We will extend indemnity to the Insured under Policy 9. C) in this instance for Legal expenses Incurred in the legal advice sort in defence of the appeal.

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
F 02 8923 5365 W www.chu.com.au

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 | www.chu.com.au

The email exchange also confirmed that owners corporation did not have any legal representation on the day because insurance company was asked for advice on which solicitors to use for SP52948 and they listed two: Bannermans and Le Page.

Unredacted evidence in document "SP52948-CHU-and-Strata-Manager-high-risk-insurance-claim-for-legal-costs-1Aug2012.pdf".

- 5) On 13 August 2012, notice of committee meeting scheduled for 22 August 2012 was prepared by Mr. Paul Banoob. In it, there was no copy of the alleged meeting dated 9 July 2012 and only copy of committee meeting dated 13 June 2012 was attached, so not even members of the committee had information about meeting on 9 July 2012.

Unredacted evidence in document "SP52948-Notice-EC-meeting-13Aug2012-organised-by-BCS-Strata-Management-Paul-Banoob-and-not-containing-minutes-of-EC-meeting-9Jul2012.pdf" – this was a special version of the notice, given only to committee members, whilst all other owners received abridged version without detailed agenda (document "SP52948-EC-Meeting-Invitation-13Aug2012.pdf").

As part of NCAT case SC 20/33352, committee members, Waratah Strata Management, and Solicitor Adrian Mueller had access to this evidence, and continued to mislead the Tribunal by providing false statements.

Additional evidence is in unredacted documents "20200722-REQUEST_ Waratah Strata Management website missing notice and minutes of EC meeting dated 9Jul2012-973.pdf" and "20200723-Re_REQUEST_ Waratah Strata Management website missing notice and minutes of EC meeting dated 9Jul2012-974.pdf".

- 6) BCS Strata Management made four claims for legal costs of Solicitor Adrian Mueller whilst illegally representing owners corporation SP52948:

\$367.64 on 31 August 2012
\$12,714.65 on 7 December 2012
\$1,320.00 on 26 April 2013
\$10,517.02 on 4 June 2013


- Solicitor Adrian Mueller sent invoice on 6 March 2013:

Memorandum of Fees – Tax Invoice
ABN 44 031 127 339

RE: Appeal by **– SCS12/32675**

PROFESSIONAL FEES	Total
See attached Time Billing Summary.	\$1,320.00
GST:	\$132.00
Total amount due and owing:	<u>\$1,452.00</u>

Insurance paid the claim on 26 April 2013:



New South Wales / ACT
 1 Northcreek Street
 Milsons Point 2061
 PO Box 507, Milsons Point 1565
 Phone: 1300 361 263
 Fax: 1300 361 260
 info_nsw@chu.com.au

Victoria / Tasmania
 Level 30, 459 Collins Street
 Melbourne 3000
 Phone: 03 8605 4000
 Fax: 03 9520 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 8600
 Fax: 08 9466 8601
 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 18 001 580 030 AFS Licence No: 243261 www.chu.com.au

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

dpe

- Solicitor Adrian Mueller sent invoice on 10 May 2013:

Memorandum of Fees – Tax Invoice
ABN 44 031 127 339

RE: Appeal by - **- CTTT File No SCS 12/32675**

PROFESSIONAL FEES	Total
See attached Time Billing Summary.	\$10,428.00
Description	Amount
Parking	\$89.02
	GST
	\$8.90
Disbursement Total:	\$89.02
Subtotal of Costs and Disbursements:	\$10,517.02
GST:	\$1,051.70
Total amount due and owing:	\$11,568.72

Insurance paid the claim on 4 June 2013:



New South Wales / ACT 1 Northcliff Street Milsons Point 2061 PO Box 507, Milsons Point 1565 Phone: 1300 361 263 Fax: 1300 361 269 info_nsw@chu.com.au	Victoria / Tasmania Level 30, 459 Collins Street Melbourne 3003 Phone: 03 8685 4000 Fax: 03 9620 0606 Tasmania P/c: 1800 650 003 info_vic@chu.com.au	Queensland 6 Floor, 445 Upper Edward Street Spring Hill 4000 PO Box 255, Spring Hill 4004 Phone: 07 2135 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 8600 Fax: 08 9466 8601 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 www.chu.com.au
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CHU Underwriting Agencies Pty Ltd ABN 18 001 580 070 AFS Licence No: 243261

Advice to payee
732417

GALLAGHER BROKING SERVICES
 PO BOX 8007
 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

wme

Unredacted evidence in document “SP52948-Lot-3-all-four-insurance-claims.pdf”.

The claims were for “legal defence of Lot 3” in CTTT case that did not exist in regards to this owner.

Unredacted evidence in document “SP52948-Mueller-invoice-10Aug2012-BCS4048297.pdf”.

Unredacted evidence in document “SP52948-Mueller-invoice-15Nov2012-BCS4527447.pdf”.

Unredacted evidence in document “SP52948-Mueller-invoice-6Mar2013-BCS5064461.pdf”.

Unredacted evidence in document “SP52948-Mueller-invoice-10May2013-BCS5454894.pdf”.

7) On 8 August 2012, at Directions Hearing in case SCS 12/32675 which were attended by Solicitor Adrian Mueller without evidence of his signed Standard Costs Agreement or any proof of his retainer, 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.

Mr. LOT 158 complied and provided extensive evidence to Solicitor Adrian Mueller by required date – 15 August 2012.

8) On 6 September 2012, whilst being fully aware of obligation to provide Mr. LOT 158 with his responses by 12 September 2012 as per Directions Hearing in case SCS 12/32675, Solicitor Adrian Mueller sent secret defamation threat, in spite of knowing that all statements and files by Mr. LOT 158 had already been sent to CTTT and himself (and were part of court proceedings) and also as notification to some owners in the complex (since notice of CTTT Directions Hearing was not provided to any owner by strata manager or committee members, as required by strata regulations):

Your letter contains a number of statements which are defamatory of past and present members of the executive committee of Macquarie Gardens, the strata managing agent of Macquarie Gardens, Raine & Horne Epping, and employees of the strata managing agent.

These statements include the following:

- *The executive committee, along with Raine & Horne Epping is responsible for long term fraud, bullying, denial of facts, and deliberate avoidance to disclose important information.*
- *Money has been "taken" from our common funds, simple as that.*
- *The [rebate] scheme was seemingly introduced and "approved" around 1999 when Bruce Copeland became a member of the executive committee.*
- *Two members of the executive committee (chairperson Bruce Copeland and now deceased Bill Young) abused their privileges and obtained PERSONAL financial benefits.*
- *Even Raine & Horne Epping office claimed a small rebate for a gas expense!*
- *The EC and the managing agent also failed to disclose this vital information to the DFT and CTTT and, in essence, perverted the course of justice so far.*
- *The following staff of Raine & Horne Epping have been involved in this fraudulent rebate scheme, or have full knowledge of this serious financial crime: Paul Banoob (Branch Manager), Gary Webb (previous secretary of the executive committee and the managing*

Mr. LOT 158 provided sufficient evidence to CTTT for allegations listed by Solicitor Adrian Mueller, and the Solicitor had access to them since 15 August 2012 but failed to acknowledge it and instead used defamation threat as a deterrent.

Unredacted evidence in document "Solicitor-Mueller-Defamation-Threat-6Sep2012-arrived-10Sep2012.pdf"

9) Solicitor Adrian Mueller charged owners corporation for attempts to threaten Mr. LOT 158 with defamation case, in spite of it not being part of CTTT case. Solicitor invoice "SP52948-Mueller-invoice-15Nov2012-BCS4527447.pdf" has full details of such costs which were also paid by insurance company.

Several days later, Solicitor Adrian Mueller failed to comply with Directions Hearing orders in file SCS 12/32675 on 12 September 2012, which was confirmed in CTTT's reminder on 17 September 2012.

In CTTT case SCS 12/32675 Solicitor Adrian Mueller failed to comply with Tribunal orders three times before the date of Hearing on 17 October 2012.

10) Solicitor Adrian Mueller confirmed to CTTT that Lot 3 was not part of proceedings on 26 October 2012 after providing false statement to CTTT at Hearing on 17 October 2012 that Lot 3 was overseas and coerced the Tribunal to strike out the orders against Lot 3:

Before the Hearing, Your Honor clearly warned about importance of presenting the FACTS and legal obligations in that regard.

At the Hearing for SCS 12/32675 on 17th of October 2012, the Solicitor Mr. Mueller, on behalf of Respondents, wrongly 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 (I believe he made a claim of them being overseas on holidays - the audio recording can confirm it). As a reminder, my Order 4 was:

To invalidate Special By-Law 4 (Exclusive Rights to Common Property by Owners of Lot 3) pursuant to section 159 of the Act due to invalid count and record of proxy votes and refusal to disclose public liability insurance by the owners of Lot 3 over many years.

I would be satisfied to revoke order to invalidate Special By-Law 4 if the owners of Lot 3 indemnify, and keep indemnified, the Owners Corporation in respect of all claims, action, costs, and expenses whether for injury to persons, or damage to property, arising in any way out of carrying out the works and future maintenance and the owner shall at all times keep in effect a public risk insurance policy in the sum of not less than \$5,000,000 to cover the owners obligations hereunder (as per registered By-Law, or enforced pursuant section 147 of the Act).

This Solicitor's statement had a grave consequence that we were forced to agree not to proceed with it due to owners' absence.

As a matter of fact, my request to obtain access to the public insurance details had been outstanding for the last five months and the notice about the Hearing was released by the CTTT as early as 5th of September 2012. The Respondents had a duty to prepare their evidence, or reasons for adjournment on this matter but failed to do so.

By pure coincidence, the Annual General Meeting (AGM) of SP52948 was held on the same day as our Hearing (just three hours later). To my surprise, one of the owners of Lot 3 (for whom the Special By-Law 4 applies) was PRESENT at the meeting and he claimed two things:

- That nobody told him about the Hearing;
- That his wife provided insurance details to the managing agent.

There are more than 40 witnesses to confirm it, including the managing agent himself and all nine members of the executive committee.

Based on that statement, I sent an email to the Solicitor Mr. Mueller (on 18th of October) and the Managing Agent (on 17th of October) to provide me with the insurance details by this morning (Friday, 19th of October). I would have been happy with any reply but got nothing at all. I very clearly stated that I need a response by today so that I can either leave it as is, or contact the CTTT.

Hence, I would like that CTTT acknowledges and investigate implications of the fact that the Order 4 at the Hearing was cancelled due to invalid statement by the Solicitor on behalf of the Respondents.

Unredacted evidence in document "faxcoversheet-SCS-12-32675-False-Statement-for-Order-4-Hearing-19Oct2012.pdf".

11) In period 2012 to 2021, Solicitor Adrian Mueller failed to comply with CTTT/NCAT orders for the Hearings six times, incurring significant costs to Lot 158, owners corporation SP52948, and insurance industry, whilst not being authorised to represent owners corporation through any legally-compliant general meetings or signed Standard Costs Agreements. Specific examples in CTTT cases SCS 12/32675, SCS 12/50460, and NCAT SC 20/33352:

- Solicitor Adrian Mueller failed to comply with Directions Hearing orders in file SCS 12/32675 on 13 September 2012,
- CTTT sent reminder to Solicitor Adrian Mueller about non-compliance with Directions Hearing orders in file SCS 12/32675 on 17 September 2012,
- CTTT changed Solicitor Directions Hearing orders for Solicitor Adrian Mueller in file SCS 12/32675 on 26 September 2012,
- CTTT sent another reminder to Solicitor Adrian Mueller about non-compliance with Directions Hearing orders in file SCS 12/32675 on 9 October 2012,
- On 7 May 2013 CTTT sent an order for their non-compliance in case SCS 12/50460 to Solicitor Adrian Mueller and BCS Strata Management.
- Mr. LOT 158 sent complaint to NCAT in case SC 20/33252 on 23 November 2020, stating that Solicitor Adrian Mueller failed to comply with Directions Hearing orders made on 25 September 2020 ("*The respondents shall provide to the applicant and the Tribunal, either in person or by post, and by email, a copy of all documents (see note below), on which the respondent seeks to rely at the hearing by 20 November 2020*"),
- On 1 February 2021, Mr. LOT 158 sent another complaint to NCAT in case SC 20/33352, stating that Solicitor Adrian Mueller again failed to comply with Tribunal orders.

12) Enclosed herewith are FOUR versions of Adrian Mueller's Standard Costs Agreement in CTTT case SCS 12/32675 with dates:

- Unredacted evidence in document "Adrian-Mueller-Standard-Costs-Agreement-without-signature-by-strata-manager-in-insurance-claim-for-his-costs-on-10Aug2012.pdf" clearly shows that QBE Insurance received claim for legal costs of Solicitor Adrian Mueller dated 10 August 2012 (insurance claim signed by BCS Strata Manager Ron Sinclair on 28 August 2012 and attached Solicitor's Standard Costs Agreement without signature and without any email/letter sent or received by Solicitor Adrian Mueller before date of 10 August 2012). In that claim, Solicitor's Standard Costs Agreement DID NOT HAVE ANY SIGNATURE ON BEHALF OF OWNERS CORPORATION.

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

- Unredacted evidence in document "Adrian-Mueller-Standard-Costs-Agreement-without-signature-by-strata-manager-provided-to-CTTT-on-29Jan2013.pdf" was a Standard Costs Agreement that Solicitor Adrian Mueller himself sent to CTTT in case SCS 12/32675 on 29 January 2013, which DID NOT HAVE ANY SIGNATURE ON BEHALF OF OWNERS CORPORATION.

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

- Unredacted evidence in document "Adrian-Mueller-Standard-Costs-Agreement-signed-by-strata-manager-on-17Jul2012-and-kept-secret-from-CTTT.pdf" was created on Tuesday 16 April 2013 at 09:08 hours and HAD SIGNATURE ON BEHALF OF OWNERS CORPORATION by Mr. Paul Banoob but that document was hidden from CTTT, District Court, and Police. It was created one day after CTTT made order for Solicitor Adrian Mueller to produce evidence that he was legally approved to represent owners corporation for CTTT case SCS 12/32675 in period August to October 2012.

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:	<i>AS per Emergency meeting of EC on 9 July 2012</i>	Date	<i>17/7/12</i>
Client	<i>Paul Banoob</i>		
	<i>At S Shell</i>	Date	<i>16 July 2012</i>
Solicitor		Date	

- Unredacted evidence in document "Adrian-Mueller-Standard-Costs-Agreement-signed-by-strata-manager-on-25Jul2012-and-provided-to-CTTT-nine-months-later-on-19Apr2013.pdf" was submitted by Solicitor Adrian Mueller to CTTT on 19 April 2013 and HAD SIGNATURE ON BEHALF OF OWNERS CORPORATION by Mr. Garry Web allegedly dated 25 July 2012.

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

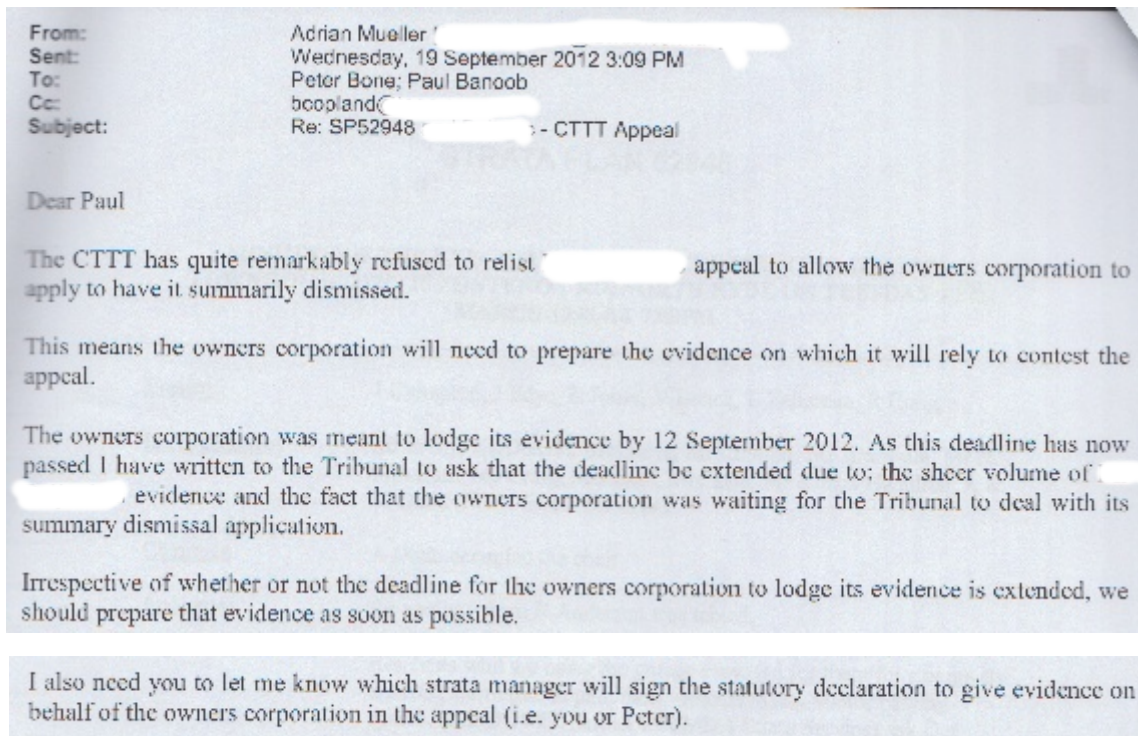
The following screenshot is part of Statutory Declaration by Strata Manager Mr. Peter Bone to CTTT on 19 April 2013. This Standard Costs Agreement was allegedly signed by another Strata Manager Mr. Gary Webb and sent via email by Mr. Peter Bone to the Solicitor. The name of the contract file in BCS Strata 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:	<i>[Signature]</i>	Date	<i>25. 7. 2012</i>
Client			
	<i>At S Shell</i>	Date	<i>16 July 2012</i>
Solicitor		Date	

- 13) On 19 September 2012, Solicitor Adrian Mueller, in secret email to two strata managers and Chairperson of owners corporation SP52948 confirming that he needed to prepare full evidence for his defence in CTTT case SCS 12/32675 and asked who would sign Statutory Declaration to give evidence on behalf of owners corporation. Extracts from the email:



Unredacted evidence in document "SP52948-Adrian-Mueller-asking-BCS-Strata-Management-who-would-sign-Statutory-Declaration-for-CTTT-case-SCS-12-32675-19Sep2012.png".

- 14) Solicitor Adrian Mueller was actively involved in preventing owners to vote against his "rights" to represent owners corporation, protecting interests of few selected owners and strata managers, by ensuring that free mediations were not possible.

Mr. LOT 158 submitted Motions for Annual General Meeting 2012 on 28 and 29 September which included proposal to avoid legal costs and mediate free of costs:

- SP52948-Motion-Training-for-Executive-Committee-Members-and-Declaration-of-Conflict-of-Interest
- SP52948-Motion-Terminate-Townhouse-Rebates
- SP52948-Motion-Rescind-By-Law-8
- SP52948-Motion-Rescind-AGM2005-Motion-8
- SP52948-Motion-Proposal-in-Relation-to-Common-Property-and-EGMs
- SP52948-Motion-Mandate-Water-Saving-Program
- SP52948-Motion-Introduction-of-Subcommittees
- SP52948-Motion-Improvements-for-Financial-Reporting-and-Auditing
- SP52948-Motion-Discuss-By-Law-10
- SP52948-Motion-Discuss-By-Law-4
- SP52948-Motion-Analysis-of-Optus-Proposal-2010-and-Past-Errors
- SP52948-Motion-Improved-Dispute-Resolution-Process-AGM

In spite of delivering Motions ahead of time (deadline was 2 October 2012 at 09:00 hours, and the Motions were sent on 29 September 2012 at 21:22 hours), strata manager Peter Bone excluded almost all of them with excuse which he could not justify when questioned about it. Solicitor Adrian Mueller was secretly engaged to review Mr. LOT 158's Motions (for which he charged owners corporation in his fees and the owners corporation claimed it from the insurance company).

Solicitor Adrian Mueller not only prevented Mr. LOT 158's Motions to engage in free mediation but also charged owners corporation SP52948 for such services.

Copy of Mr. LOT 158' Motion to avoid legal costs for all parties:

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.]

Unredacted evidence in document "SP52948-Mueller-invoice-15Nov2012-BCS4527447.pdf".

Unredacted evidence in document "SP52948-AGM-2012-paperwork.pdf".

Unredacted evidence in document "20120929-UPDATED_ SP 52948 - Annual General Meeting Motions by LOT 158-3127.pdf"

- 15) Strata manager and committee members were warned by Mr. LOT 158 about risks and consequences of lying to CTTT in email dated 3 October 2012, two weeks before the Hearing. The email was ignored.

Subject: Please pass this to the EC members for consideration

From:

Date: 3/10/12, 3:00 pm

To: Peter Bone

At Parramatta Local Court on Friday 22 July 2011, Sam Cohen was convicted of lying at CTTT. The criminal offense carries 12 months imprisonment and/or a fine of up to \$5,500 (Consumer Trader And Tenancy Tribunal Act 2001 - SECT 71 False or misleading statements):

A person must not:

- (a) in any proceedings, or
 - (b) in any application under this Act,
- provide any information, or make any statement, to the Tribunal, Chairperson or Registrar knowing that the information or statement is false or misleading in a material respect.

Unredacted evidence in document "2012-Lot-158-warning-to-strata-manager-and-EC-member-about-consequences-of-false-statements-to-CATT-3Oct2012.pdf".

- 16) Annual General Meeting of owners corporation SP52948 on 17 October 2012 (same day of the CTTT Hearing) did not present any Motion for approving engagement of Solicitor Adrian Mueller.

Unredacted evidence in document "SP52948-AGM-2012-paperwork.pdf".

17) Solicitor Adrian Mueller did not present any evidence at CTTT Hearing on 17 October 2012 and even coerced the Tribunal to strike out orders against Lot 3 due to their absence at the Hearing.

Solicitor Adrian Mueller confirmed it to CTTT on 26 October 2012 after providing false statement to CTTT at Hearing that Lot 3 was overseas and coerced the Tribunal to strike out the orders.

Mr. LOT 158 refuted Solicitor's statement to CTTT about Lot 3 being overseas and not able to attend the Hearing. Solicitor Adrian Mueller never responded or notified the CTTT about his false statements.

Unredacted evidence in document "faxcoversheet-SCS-12-32675-False-Statement-for-Order-4-Hearing-19Oct2012.pdf".

Unredacted evidence that Lot 3 was present at Annual General Meeting on 17 October 2012 is in document "SP52948-AGM-2012-paperwork.pdf".

18) As per CTTT orders on 17 October 2012, Solicitor Adrian Mueller signed Agreement which guaranteed delivery of financial records to Mr. LOT 158.

Agreement
This agreement is made on 17 October 2012

Between: The Owners - Strata Plan No. 52948
("OC")

And: ("DB")

Whereas:

A. DB is an owner of a lot in Strata Plan No. 52948 and alleged 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 Transaction Report" and a "Cash Book Payments Report" from and including the period 2008 to date as exist.

Signed: AShell
OC by its solicitor

DB

That promise was not delivered in full and evidence of signed Standard Costs Agreement, emails between the Solicitor and owners corporation, and proofs of payments to Solicitor Adrian Mueller were withheld, preventing Mr. LOT 158 and CTTT to have access to such files.

Unredacted evidence in document “CTTT-Solicitor-agreement-about-access-to-files-17Oct2012-received-on-22102012”.

- 19) On 18 October 2012, Mr. LOT 158 sent email to Solicitor Adrian Mueller with concerns about his actions at Hearing on 17 October 2012, including refutation of Solicitor’s statement to CTTT about Lot 3 being overseas and not able to attend the Hearing.

Solicitor Adrian Mueller never responded or notified the CTTT about his false statements.

Unredacted evidence in document “SP52948-LOT 158-email-to-Solicitor-Adrian-Mueller-18Oct2012.html”.

- 20) On 17 and 18 October 2012, Mr. LOT 158 sent follow-up requests to BCS Strata Management about false statements by Solicitor Adrian Mueller and lack of files for CTTT. No reply was received.

Unredacted evidence in document “ SP52948-emails-to-MA-After-Hearing-and-AGM-2012-17Oct2012.pdf”.

- 21) Mr. LOT 158 carried document search in office of BCS Strata Management on 12 November 2012 and discovered many strata files missing, including signed copy of Solicitor Adrian Mueller’s Standard Costs Agreement.

Oral complaints, followed by email to Mr. Peter Bone and Mr. Paul Banoob, about missing files were delivered to BCS Strata Management, who failed to comply with SSMA 1996 regulations.

- 22) In spite of two insurance claims for Solicitor’s legal costs paid to owners corporation SP52948 in amount of \$13,082.29 without disclosure to owners, Solicitor Adrian Mueller secretly initiated legal cost recovery at CTTT without owners corporation knowledge or approval at any meeting on 10 December 2012.

Unredacted evidence in document “Solicitor-Adrian-Mueller-secretly-initiated-legal-cost-recovery-without-owners-corporation-knowledge-or-approval-in-spite-of-already-paid-two-insurance-claims-10Dec2012.pdf”.

- 23) As soon as Mr. LOT 158 saw that Solicitor Adrian Mueller provided his Standard Costs Agreement without signature to CTTT on 29 January 2013, he initiated attempts to get evidence of who and how approved legal engagement of the Solicitor. Mr. LOT 158 was ignored by BCS Strata Management, Solicitor Adrian Mueller, and committee members, in spite of irrefutable facts that two of the committee members were illegal (Mr. Stan Pogorelsky and Mr. Moses Levitt) due to unpaid gas heating levies since 1999 and 2001 respectively, whilst Mr. LOT 158 was legally valid member of the committee, and that Mr. LOT 158 carried full 12-month proxy authorisations to represent three other owners in the complex.

24) Solicitor Adrian Mueller was fully aware that committee members also wanted to prevent access to strata files as he had copy of this email dated 18 February 2013:

From Bruce Copland [redacted] Reply Reply All Forward More
Subject SP 52948 committee meeting 18/2/13, 6:12 pm
To John Ward
Cc 'Peter Bone'

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 DB 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

[redacted]

Unredacted evidence in document “SP52948-Executive-Committee-instructions-to-BCS-Strata-Management-Peter-Bone-about-CTTT-evidence-not-allowed-to-be-provided-perhaps-even-after-legal-case-closed-18Feb2013.png”.

- 25) After realising that solicitor Adrian Mueller had no signature on his Standard Costs Agreement which he sent to Mr. LOT 158 and CTTT on 29 January 2013, Mr. LOT 158 embarked on attempts to obtain evidence of legally approved engagement of the Solicitor.

Mr. LOT 158's email was sent on 4 February 2013, with Subject line "OFFICIAL REQUEST TO INSPECT RECORDS: SP52948 correspondence by EC members and Solicitor from January 2012 to February 2013". Unredacted evidence in document "20130204-OFFICIAL REQUEST TO INSPECT RECORDS_ SP52948 correspondence by EC members and Solicitor from January 2012 to February 2013-1124.pdf".

The response from the strata manager was swift, as per advice by Solicitor Adrian Mueller himself. In email response on the same day - 4 February 2013, strata manager Peter Bone refused access to strata files:

 Mon 4/02/2013 2:50 PM
Peter Bone
RE: ACCESS TO INSPECT RECORDS REQUESTED: SP52948 correspondence by EC members and Solicitor from January 2012 to February 2013

To :

Cc: 'Adrian Mueller'; Paul Banoub

 We removed extra line breaks from this message.

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 to arrange a date / time for your inspection.

Thank you.

26) Unredacted evidence shows that Solicitor Adrian Mueller knew of this court case when he prevented access to his correspondence:

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.

Solicitor also fully confirmed on 30 August 2013 that emails form part of the owners corporation records and have to be disclosed under Section 108 of SSMA 1996:

 Fri 30/08/2013 9:02 AM
Adrian Mueller ·
Re: SP 52948 - FW: PRIVATE AND SENSITIVE REQUEST: SP52948 Insurance Claims

To: Peter Bone

Cc: Adrian Mueller; Paul Baroob

 You replied to this message on 30/08/2013 9:11 AM.
We removed extra line breaks from this message.

Peter

I do not believe you are under any obligation to keep section 108 Strata Schemes Management Act 1996.

email confidential. The email forms part of the OCs records that are capable of being inspected and disclosed under

Regards

Adrian Mueller
J S Mueller & Co
Solicitors

27) On 18 February 2013, Chairperson of owners corporation SP52948 sent email to BCS Strata Management and another committee member (Mr. John Ward), suggesting to hide information from owners and not allow anyone to access files in CTTT case SCS 12/32675, as per alleged advice from Solicitor Adrian Mueller.

28) On 24 February 2013, Mr. LOT 158 initiated process of issuing summonses to several committee members and strata manager to provide CTTT and him certain strata records, including evidence of legal engagement of Solicitor Adrian Mueller. Summonses were issued for:

Mr. Peter Bone

Mr. Bruce Copland (Chairperson of owners corporation SP5294)

Mr. John Ward

Mrs. Maureen McDonald

On 24 February 2013 at 19:45 hours, Mr. 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".

Mr. LOT 158 submitted summonses on 25 February 2013 to CTTT, with updated version on 27 February 2013.

29) Day after notice of issue of summonses to strata manager Peter Bone, as reported by Mr. LOT 158, there was an anonymous phone call to Mr. 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.

Similar anonymous threat in letterbox notice "urging" Mr. LOT 158 to disappear from complex was reported to Police (and ignored by them) in Event E45617744 on 6 October 2011.

30) Evidence that Solicitor Adrian Mueller knew about summonses for strata manager Peter Bone and was actively involved on 26 February 2013 is available in Solicitor's invoice dated 6 March 2013.

Unredacted evidence of updated requests dated 27 February 2013 in document "Peter-Bone-produce-documents-summons-short-v2-27Feb2013.docx".

Neither recipient of summonses replied, nor provided CTTT and Mr. LOT 158 with any of requested files.

Solicitor Adrian Mueller was directly involved in preventing access to files for CTTT and Mr. LOT 158, as unredacted invoice "SP52948-Mueller-invoice-6Mar2013-BCS5064461.pdf" can prove it:

- SP52948-Solicitor-Adrian-Mueller-secret-involvement-in-reviewing-AGM-Motions-without-owners-corporation-approval-extract-from-invoice-58762-dated-15Nov2012
- SP52948-Solicitor-Adrian-Mueller-secret-involvement-in-preventing-access-to-strata-documents-without-owner-corporation-approval-extract-from-invoice-60252-dated-6Mar2013
- SP52948-Solicitor-Adrian-Mueller-secret-involvement-in-preventing-issue-of-summonses-without-owner-corporation-approval-extract-from-invoice-60252-dated-6Mar2013

- 31) In paper committee meeting on 28 March 2013 (without any owner attending or having right to vote), decision was made not to approve Solicitor Adrian Mueller to attend CTTT mediation on 15 April 2013 (which was next date of the Hearing):

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 28TH 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 15th April 2013, in relation to an application lodged by the owner of Lot 158, ↑

Defeated

Unredacted evidence in document “SP52948-Minutes-paper-EC_meeting-28Mar2013.pdf”.

- 32) On 15 April 2013, Solicitor Adrian Mueller appeared in CTTT Hearing and appeared “shocked” by that decision. After asking to exit the Hearing to contact strata manager and the committee, Solicitor Adrian Mueller spent more than 10 minutes on the phone outside the courtroom on the phone. Upon his return to the courtroom, he then argued the following to the Tribunal (transcribed from the third CD-ROM at around 12th minute of the audio recording at that Hearing - all audio recordings in case SCS 12/32675 are in our possession):

“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... having perused my file in the last five minutes. Material... There’s two documents: first is a letter from me to the owners corporation dated the 2nd 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 the 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 leave.. tender of these documents today on the basis that I’ve only been informed of the challenge...”

Solicitor Adrian Mueller coerced Tribunal member that meeting on 28 March 2013 mistook mediation at Fair Trading NSW with CTTT case, although it was clear that three parts of decision were crystal clear:

- Date of Hearing (15 April 2013)
- Venue (CTTT).
- Mr. LOT 158’s offer for free Mediation in Fair Trading NSW case SM12/1537 (precursor to CTTT case SCS 12/50460) was rejected for second time, as orchestrated by Solicitor Adrian Mueller, on 27 March 2013. Unredacted evidence in document “CTTT-SCS-12-50460-DFT-mediation-failed-second-time-27Mar2013.pdf”.

Solicitor Adrian Mueller did not have any legal rights to represent owners corporation in SCS 12/50460, as later shown by evidence, and also through secret plan by strata manager Peter Bone to ask owners to approve his Standard Costs Agreement on 8 May 2013 – unredacted evidence in document “ SP52948-Strata-Manager-Peter-Bone-proposing-new-Solicitor-contract-to-owners-8May2013.pdf”.

Solicitor Adrian Mueller secretly submitted his proposal for Standard Costs Agreement in CTTT case on 6 May 2013, which was never approved.

Unredacted evidence in document "SP52948-CTTT-12-50460-Solicitor-offer-for-costs-agreement-6May2013.pdf".

Tribunal accepted this weak excuse by Adrian Mueller but ordered the Solicitor to prove his retainer by 19 April 2013.

- 33) Unredacted evidence in document "SP52948-Solicitor-Adrian-Mueller-Giving-Secret-Advice-to-Bruce-Copland-and-BCS-Strata-Management-Provide-Signed-Contract-Under-Pressure-After-CTTT-Hearing-15Apr2013.png" is a secret email from Solicitor Adrian Mueller asking for urgent committee meeting and confirmation that his contract was signed on 25 July 2012:

From: Adrian Mueller [mailto:adrian.mueller@rains.com.au]
Sent: Monday, April 15, 2013 6:12 PM
To: peterb@strata.com.au; Bruce Copland; paul.banoob@strata.com.au
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

Solicitor also belatedly asked for evidence of meetings from 2012 and urged strata manager and the committee to organise paper committee meeting for 19 April 2013 to "approve" Motions which Solicitor Adrian Mueller prepared, in spite of knowing that such meeting could not satisfy strata laws for required time to send notices to owners.

Two questions are obvious:

1. If Solicitor had copy of his signed Standard Costs Agreement, why he needed a non-compliant committee meeting to urgently approve it?
 2. If Solicitor had a copy of his signed Standard Costs Agreement, why he needed copies of previous committee meetings which he had relied on during previous Hearings (but obviously had no evidence to reply on them)?
- 34) At Hearing on 15 April 2013, Solicitor Adrian Mueller coerced Tribunal to force Mr. LOT 158 to prepare another set of folders for him because strata manager lost submissions sent by Mr. LOT 158 in February 2013.

This extra cost to Mrs. LOT 158 (who covered costs for Mr. LOT 158) amounted to \$700.00 and Mr. LOT 158 forced Solicitor Adrian Mueller to sign the document about folder delivery on 18 April 2013.

Unredacted evidence in document “Adrian-Mueller-signed-LOT 158-document-confirming-delivery-of-documents-which-BCS-Strata-Management-lost-and-requirements-to-provide-evidence-of-proper-engagement-of-Solicitor-legal-services-18Apr2013.pdf”.

35) In panic, committee exchanged secret email on 16 April 2013, planning the meeting for 26 April 2013:

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

From: Bruce Copland

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

To: "WARD, John"; "zellev@

"esaulits@

"jeffrey@

"mcdonald151@

"hirsch25@

pogo@

CC: "Peter Bone"

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

Unredacted evidence in document “SP52948-panic-request-to-approve-urgent-paper-meeting-16Apr2013.pdf”.

36) Realising that the meeting had to deliver approval for Solicitor by 19 April 2013, committee ran time-warped meeting scheduled for 26 April 2013 one week earlier on 19 April 2013, and Solicitor Adrian Mueller tried to use it as valid defence of his retainer.

Unredacted evidence in document “SP52948-secret-agenda-and-paper-EC-meeting-19Apr2013.pdf”.

37) Solicitor Adrian Mueller made claim to CTTT that he had received email with signed Standard Costs Agreement on 25 July 2012 by Mr. Gary Webb and that it was sent by strata manager Mr. Gary Webb.

Solicitor Adrian Mueller made the following statement to CTTT on 19 April 2013 – unredacted evidence in document "Letter-to-TribunalCommission-by-courier-19Apr2013.pdf".

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.

It clearly suggested that the Standard Costs Agreement was signed by Mr. Gary Webb (owners corporation SP52948 strata manager) and sent by him.

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

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 minuted 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. DB 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.*"

38) In Statutory Declaration to CTTT (fully and solely prepared by Solicitor Adrian Mueller - evidence is in his invoice he charged SP52948 for), in unredacted document "Peter-Bone -SD-declaration-19Apr2013.pdf", it said:

On 25 July 2012 I emailed to Adrian Mueller a copy of the Standard Costs Agreement signed by Gary Webb.

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.



2

- 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.

- 39) None of eight emails listed in Mr. Bone's Statutory Declaration have ever been found in any document search or provided by Solicitor Adrian Mueller.

In addition, Solicitor Adrian Mueller is very pedantic to charge for every email he receives or sends, and the alleged letters /emails on 5, 6, 16, and 25 July 2012 are not listed in his invoice dated 10 August 2012:

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	\$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 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
Total		\$1,360.00	\$136.00

Unredacted evidence in document "SP52948-Mueller-invoice-10Aug2012-BCS4048297.pdf".

- 40) Strata manager Peter Bone was not strata manager for SP52948 until committee meeting on 22 August 2012 (unredacted evidence in document "SP52948-EC-Minutes-22Aug2012.pdf").

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 22nd 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 Banoob & P Bone from Raine & Horne Strata-Sydney
Paul Banoob 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.

Layman can find this to satisfy "on the balance of probabilities" and "beyond reasonable doubt" legal requirements for prosecution (statements were plainly and deliberately false and contradict each other).

- 41) In final Hearing in case SCS 12/32675 on 10 May 2013, apart from Solicitor Adrian Mueller who continued to claim he was legal to represent owners corporation, three members of Pica Group and BCS Strata Management attended (Mr. Peter Bone, Mr. Paul Banoob, and an unknown third person who is suspected to be Mr. Greg Freeman), without assisting Tribunal member and yet charging owners corporation for costs (unredacted evidence in document "BCS5532260-BCS-Strata-Management-charging-for-attending-CTTT-Hearing-SCS-12-32675-10May2013.png").

They did not offer assistance to the Tribunal that the Statutory Declaration by their staff was falsified.

- 42) On 10 May 2013 Mr. LOT 158 issued request to Solicitor Adrian Mueller to return private property and reimburse owners corporation SP52948.

In his dismissive reply on 14 May 2013, Solicitor Adrian Mueller provided further false statements that CTTT provided him with copies of files, which was untrue, because all files were provided in folders by Mr. LOT 158, and some by strata manager. CTTT never provides files unless service fees paid, and the party is considered to be part of proceedings, which in this case would mean CTTT assumed Solicitor Adrian Mueller was legal representative of owners corporation SP52948. In his email, Solicitor Adrian Mueller stated:

I did not reach any agreement with you at the CTTT last Friday.

On that day you told me that I had received some documents concerning your latest CTTT application and you asked me to return those documents. I told you to put your request to me in writing which you have now done.

I received documents on File SCS 12/50460 from the CTTT, not you. These documents are not private. I am not holding these documents illegally or without authority. I am presently under no obligation to return these documents to you and I therefore do not propose to do so. If the position changes I will advise you accordingly.

I disagree with the other assertions you make in your email.

Finally, you are not my client. I am presently under no obligation to agree to your requests (insofar as they relate to you) and I therefore do not propose to do so.

When Solicitor refused to comply Mr. LOT 158 sent an updated request – Unredacted evidence in document “20130514-Re_OFFICIAL REQUEST on 10 May 2013_ Immediate return of private property and reimbursement of Invoice on 6 March 2013-2978”.

And another request on 1 June 2013 – Unredacted evidence in document “20130601-Re_OFFICIAL REQUEST on 10 May 2013_ Immediate return of private property and reimbursement of Invoice on 6 March 2013-3028.pdf”.

Throughout May 2013, once owners found out about these legal costs and events, many submitted their requests not to engage Solicitor for any events. Unredacted evidence in document “SP52948-Lots-against-legal-costs-ignored-by-EC-May2013.pdf”.

- 43) *In CTTT case SCS 12/50460, Solicitor Adrian Mueller claimed to strata manager that he had no knowledge of it on 6 May 2013, in spite of being fully involved in through Fair Trading NSW and CTTT already (and charging owners corporation for such work, who further claimed his expenses through insurance).*

Mr. LOT 158 personally notified Solicitor Adrian Mueller and strata manager Peter Bone about CTTT case SCS 12/50450 and 12/50460 in email with Subject “FACSIMILES SENT TO CTTT: SCS 12/32675 12/50450 and 12/50460 on 19 October 2012”. The CTTT case was related to misconduct of general meeting in October 2012.

Unredacted evidence in document “Solicitor-Adrian-Mueller-false-statement-about-knowledge-of-CTTT-case-12-50460-6May2013.png”.

- 44) *Solicitor Adrian Mueller secretly submitted his proposal for Standard Costs Agreement in CTTT case on 6 May 2013, which was never approved.*

Unredacted evidence in document “SP52948-CTTT-12-50460-Solicitor-offer-for-costs-agreement-6May2013.pdf”.

- 45) *On 26 December 2013, Mr. LOT 158 sent email to six members of the committee and two strata managers (Mr. Peter Bone and Mr. Paul Banoob) which stated:*

For the record on strata files.

Owners are not told much about what is currently happening, which is in non-compliance with the SSMA 1996 (lack of detailed agenda for meetings and not serving District Court and CTTT applications and notices on each owner immediately):

a) District Court in file 13/360456 hearing is scheduled for 6 February 2013;

b) CTTT Hearing in file SCS 13/50737 is scheduled for 26 February 2013.

Three major actions on my side, apart from submission of evidence in both cases (that shows, among the other things, that last three general meetings are void and invalid):

a) I found definite evidence that Strata Manager Mr. Peter Bone provided false statements in his sworn Statutory Declaration in April 2013. do not need to emphasize the importance of it.

I will seek any owner or member of the EC who wants to take stand and defend Strata Manager's actions.

b) Request to dismiss engagement of Solicitor Mr. Adrian Mueller due to reasonable apprehension of bias and constructive contempt of court (failed to follow Tribunal orders and directions four times just in file SCS 12/32675), and other actions.

c) The second EGM scheduled for 20 December 2013 asks to approve Strata Manager's decision to engage Solicitor Mr. Adrian Mueller in additional amount of \$16,500.00 (last two general meetings now seemingly approved legal expenses in amount above \$31,000.00) without any consultation of the EC or owners corporation. Strata Manager

acted alone and now seeks retrospective "ratification". To make ratification valid, detailed agenda is required to satisfy "test of reasonable".

I attempted to mediate too many times. That was declined but it does not mean the problems should be ignored and past actions forgotten. They came at too high losses to owners corporation.

As always, I am open to fair discussions and suggestions.

Reply was never received.

Unredacted evidence in document "20131216-SUMMARY_ Hearings at District Court and CTTT scheduled - status on 16 Dec 2013-229.pdf1".

- 46) In BCS Strata Management Affidavit to District Court case 2013/360456 in February 2014, similar false statements were made, in spite of knowledge that Mr. LOT 158 was denied full access to strata files multiple times during 2012 and 2013 (in none of the document searches in office of BCS Strata Management in Epping signed version of Solicitor Adrian Mueller's Standard Costs Agreement was found):

7 March 2013, paid \$33.00

11 March 2013, paid \$172.80

June 2013, BCS Strata Management ignored request for access to strata files

11 September Sep2013, paid \$45.00

15 October 2013, paid \$45.00

18 October 2013, paid \$32.00

Solicitor Adrian Mueller knew of these facts but failed to disclose them at District Court. The outcome of Solicitor's actions was "penalty" against Mr. LOT 158 in amount of \$26,500.00 plus legal costs.

Unredacted evidence in document "Affidavit-by-BCS-Strata-Management-to-District-Court-31Jan2014.pdf".

- 47) Unredacted evidence in document "SP52948-Chairperson-confirming-Solicitor-Adrian-Mueller-not-engaged-for-CTTT-12-50460-2Sep2013.png" dated 2 September 2013 shows secret email confirming that Solicitor Adrian Mueller was NOT ENGAGED in CTTT case SCS 12/50460, in spite of Solicitor making costs and falsely claiming to Fair Trading NSW and CTTT that he was.
- 48) Document "CTTT-SCS-12-50460-DFT-mediation-Solicitor-involvement-6Mar2013.pdf" shows unredacted evidence that Solicitor Adrian Mueller made claim to Fair Trading NSW that he was legally representing SP52948 in precursor to SCS 12/50460 (mediation attempt) on 7 March 2013.
- 49) Document "SP52948-CTTT-SCS-12-50460-Non-compliance-order-for-Secretary-and-Solicitor-7May2013.pdf" contains unredacted evidence that CTTT was coerced into believing that Solicitor Adrian Mueller was acting on behalf of SP52948.
- 50) Solicitor Adrian Mueller was aware of SCS 12/50460 as early as 19 October 2012 (evidence is in our possession).
- 51) In spite of knowing that he was not legal to represent owners corporation SP52948 in CTTT cases SCS 12/32675 and SCS 12/50460, Solicitor Adrian Mueller continued to act without legally-valid approval in CTTT case SCS 13/50737 and District Court case 13/360456, incurring costs above \$30,000.00.

- 52) On 22 and 23 August 2017, through two emails, Solicitor Adrian Mueller secretly embarked on providing “recipe” how to exclude Mr. LOT 158’s Motions from general meeting, effectively preventing 218 owners from getting information before making informed decisions.

3

*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.

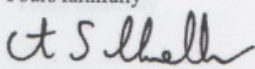
3.6. Next Steps *For Inclusion of Motions in Agenda of General Meeting*

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

The second email on 23 August 2017 prepared a template for Waratah Strata Management how to exclude Lot 158 Motions, but not send the letter until very close to the date of the general meeting:

[LETTERHEAD OF WARATAH STRATA MANAGEMENT]

23 August 2017

[REDACTED]
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

Waratah Strata Management complied with Solicitor's suggestion and sent email to Mr. LOT 158 on 10 October 2017, which looked like this:



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

Unredacted evidence in document “SP52948-Solicitor-Adrian-Mueller-secret-advice-on-23Aug2017-to-exclude-Lot-158-Motions-for-general-meeting.pdf”.

Unredacted evidence in document “SP52948-Solicitor-Adrian-Mueller-secret-advice-on-23Aug2017-to-exclude-Lot-158-Motions-for-general-meeting-and-introduce-Unreasonable-Communications-Special-By-Law.pdf”.

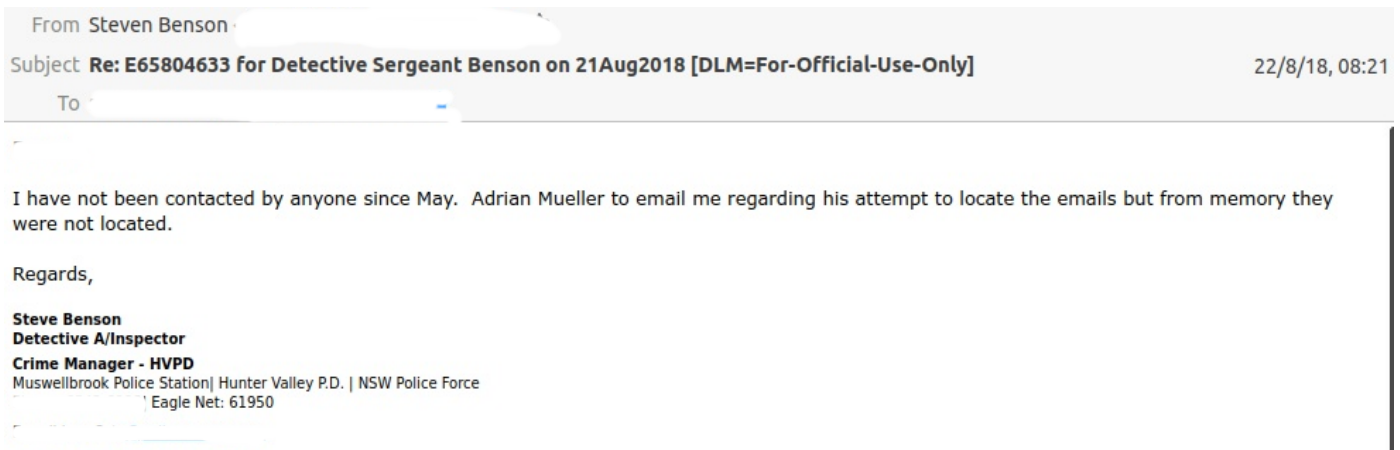
Unredacted evidence in document “ SP52948-Waratah-Strata-Management-followed-Solicitor-Adrian-Mueller-advice-on-23Aug2017-to-exclude-Lot-158-Motions-without-grounds-for-AGM2017-sent-on-10Oct2017.pdf”.

53) In July 2017, Mr. LOT 158 opened Police Event with evidence of fraud, false statements, and other issues. The event number was E65804633. One of the listed parties-of-interest was Solicitor Adrian Mueller.

After lot of delays, the Police approached Solicitor for access to files that were part of Statutory Declaration he had prepared for strata manager Peter Bone on 19 April 2013. Solicitor did not provide any files but secretly charged \$350.00 to owners corporation SP52948 on 28 May 2018:

Strata Plan 52948		Macquarie Gardens, 1-15 Fontenoy Road, Macquarie Park NSW 2113					
Date	Details	Payee	Amount (GST exclusive)	Status	Type	Ref.No.	Payment No.
15/03/2018	Lot 81: Debt recovery Stage 1		(25.00)		Ow.Inv		
15/03/2018	Lot 116: Debt recovery Stage 1		(25.00)		Ow.Inv		
15/03/2018	Lot 119: Debt recovery Stage 1		(25.00)		Ow.Inv		
15/03/2018	Lot 133: Debt recovery Stage 1		(25.00)		Ow.Inv		
15/03/2018	Lot 143: Debt recovery Stage 1		(25.00)		Ow.Inv		
15/03/2018	Lot 177: Debt recovery Stage 1		(25.00)		Ow.Inv		
15/03/2018	Lot 193: Debt recovery Stage 1		(25.00)		Ow.Inv		
15/03/2018	Lot 196: Debt recovery Stage 1		(25.00)		Ow.Inv		
15/03/2018	Lot 203: Debt recovery Stage 1		(25.00)		Ow.Inv		
26/03/2018	Lot 10: Le Page Lawyers Fee		(120.00)		Ow.Inv		
26/03/2018	Lot 10 Le Page Lawyer Fees	Le Page Lawyers	120.00	Paid	DE	80788	000410
03/04/2018	Levy Reminder Notice April 2018	Waratah Strata Management	350.00	Paid	DE		000415
17/04/2018	Lot 52: Debt recovery Stage 2		(50.00)		Ow.Inv		
17/04/2018	Lot 81: Debt recovery Stage 2		(50.00)		Ow.Inv		
17/04/2018	Lot 115: Debt recovery Stage 2		(50.00)		Ow.Inv		
17/04/2018	Lot 132: Debt recovery Stage 2		(50.00)		Ow.Inv		
02/05/2018	Levy Warning Notice May 2018	Waratah Strata Management	200.00	Paid	DE		000440
15/05/2018	Lot 81: Debt recovery Stage 3		(50.00)		Ow.Inv		
28/05/2018	Report to Police	J.S. Mueller & Co	350.00	Paid	DE	87279	000458
04/06/2018	Levy Final Demand June 2018	Waratah Strata Management	50.00	Paid	DE		000461
			(25.00)		Ow.Inv		

On 22 August 2018, the Police confirmed that the Solicitor “could not find the requested files”.



54) To prevent Lot 158 from submitting Motions for general meetings and communicating with other owners, Solicitor Adrian Mueller provided advice on new Special By-Law “Unreasonable Communications” and secretly charged \$5,200.00 (exclusive GST) in December 2017 (his Standard Costs Agreement was never given to any owner).

Unredacted evidence in document “SP52948-5200-dollars-exclusive-of-GST-paid-to-Adrian-Mueller-for-services-11Dec2017.pdf”.

Unredacted evidence in document “SP52948-used-Unreasonable-Communications-Special-By-Law-against-Lot-158-six-times-without-disclosure-to-NCAT-SC-20-33352.pdf”.

55) On 18 June 2019, Mr. LOT 158 sent email to Waratah Strata Management. Subject line of the email was:

“WITHOUT PREJUDICE: Request to stop wasting strata funds on legal expenses that cannot succeed – 18Jun2019”

In it, Mr. LOT 158 said:

To be shared with all owners in the complex immediately. Any attempt to avoid doing it as a risk for the strata agency. Waratah Strata Management and the Executive Committee are politely but firmly advised not to proceed with legal advice at owners corporation expense, firstly because it does not benefit owners in general but only some members of the Executive Committee, strata managers, and the Solicitors themselves, and secondly because SP52948 is already under dire financial stress (after elevators upgrades are completed which start in mid-July 2019, then two and a half roof membranes which are overdue, Block D hot water system upgrade, replacement of many obsolete smoke alarms, and so on). The owners do not realise it yet but they will soon.

Instead of wasting strata funds, simply work on resolving ongoing issues and enforcing proper management of the complex.

a) The attempt to engage Solicitor Adrian Mueller (or any other legal advice at owners corporation expense) must be prevented, or owners who are financial allowed to vote through FULL DISCLOSURE at the general meeting. Lot 158 looks forward to the next general meeting, which MUST reintroduce all their Motions from AGM 2018.

b) For the Executive Committee to "vote" they must be legally elected and financial before general meetings. Putting aside previous general meetings for the moment, it is proven beyond reasonable doubt that Annual General Meetings 2016, 2017, and 2018 were conducted by failing to satisfy quorum due to owners who were unfinancial before the meeting. Lot 158 has that evidence. To be an authorised person of the owners corporation, an owner must be financial before the general meeting. Strata Schemes Management Act (SSMA) 2015, Schedule 2, c9(4) states: voting rights cannot be exercised if contributions not paid - member of the strata committee is not entitled to vote on any motion put or proposed to be put to the strata committee if the member was, or was nominated as a member by a member who was, an unfinancial owner of a lot in the strata scheme at the date notice of the meeting was given and the amounts owed by the unfinancial owner were not paid before the meeting.

It is crucial stating that some owners were disallowed to vote at general meetings even when they owed as little as \$0.10 in the past (Lot 158 has that evidence).

c) Solicitor Adrian Mueller is currently under investigation by the Office of Legal Services Commissioner since 24 January 2019 and listed by Lot 158 as "person of interest" in Police Event E65804633 since July 2017. Partial listing of issues that were submitted (legal practitioners call them "allegations"):

- Continuous professional misconduct since 2012 that earned him close to \$80,000.00 so far.
- Four versions of the Standard Costs Agreement and only one contained the alleged signature by Mr. Gary Webb nine months after the engagement:
 - 17 July 2012: Signed Standard Costs Agreement by BCS Strata Management Epping Branch Manager Mr. Paul Banoob in document generated on 16 April 2013 and undisclosed to owners, CTTT, and District Court in 2012, 2013, and 2014. Found in strata documents in sixth paid document search on 13 June 2017.
 - 25 July 2012: Allegedly signed Standard Costs Agreement by BCS Strata Management Mr. Gary Webb as provided in Statutory Declaration by Mr. Peter Bone to CTTT on 19 April 2013 (nine months after the event).
 - 28 August 2012: Undisclosed to owners, CTTT, and District Court in 2012, 2013, and 2014. BCS Strata Management insurance claim form and files without signed Standard Costs Agreement.
 - 29 January 2013: Solicitor Mr. Adrian Mueller's submission to CTTT without signed Standard Costs Agreement.
- Solicitor suggested to the Executive Committee to use insurance claims to pay for his invoices on 2 July 2012 in spite of knowing that the owners corporation had no funds to pay even the standard bills in that month (had to withdraw money from the other funds secretly).
- Solicitor was well informed about the secret change of the insurance contract clause (without owners corporation knowledge or approval) and the first claim made for his expenses only two weeks later (at the end of August 2012).
- Solicitor provided false statement to the Tribunal that Lot 3 was away from the country at the CTTT Hearing on 19 October 2012 but the same evening Lot 3 was found present at the Annual General Meeting.
- Solicitor confirmed to CTTT in letter on 26 October 2012 that Lot 3 was NOT part of the proceedings, and yet, had full knowledge of insurance claims for "Defence of Lot 3" which amounted to \$24,919.31 (plus GST) in period August 2012 to mid-2013.
- Solicitor was well informed about the invoice paid for insurance premiums to Gallagher Australia on 21 September 2012 in amount of \$84,414.77, which was 74.38% higher than in September 2011 (due to warning by the Insurance Broker about the "high risk" CTTT case in August 2012).
- Solicitor was well informed about losses to Lot 158 in amount of close to \$29,000.00 due to his actions.

- Solicitor was well aware that in 2012 and 2013 none of the owners (including the Executive Committee members) were paying levies for second gas connections.
- Solicitor was well aware about the documented losses above \$120,000.00 for private water and gas reimbursements to selective townhouse owners without Special Resolution of Special By-Law in period 1999 to May 2013.
- Solicitor was well aware of the plan for BCS Strata Management to submit Statutory Declaration and be present at CTTT Hearings in 2012/2013 but he disallowed it.
- Solicitor was well aware of SP52948 owners not wanting to engage him as per Lot 158 evidence in May 2013. One of the votes against the Solicitor belonged to Rabbi Cohen, who is still the owner in the complex.
- Solicitor sent secret note to the Executive Committee urging them to produce "signed contract" one day after third CTTT hearing on 17 April 2013.
- Solicitor initiated CTTT case without official owners corporation approval or disclosure to owners on 10 December 2012, although he was well aware that the insurance had approved \$12,714.65 for his legal costs three days earlier on 7 December 2012.
- Solicitor was directly involved in preventing Lot 158 from viewing strata files in 2012 and 2013 without valid reason. Solicitor's invoice dated 6 March 2013 shows the efforts by him to prevent access to them (including the Standard Costs Agreement which ALL owners should have received as early as July 2012).
- Solicitor Adrian Mueller is a listed "person of interest" in Police Event E65804633 since July 2017.
- Payment was uncovered for the Solicitor dated 28 May 2018. It was in amount of \$350.00 (plus GST) for "Report to Police", in which, according to the Police statements on 28 August 2018, he did not provide crucial eight emails. In strata files I found no Standard Costs Agreement for the expense dated 28 May 2018 and no invoice issued by Solicitor Adrian Mueller. In strata files on 31 May 2018, we found no Standard Costs Agreement for the expense dated 28 May 2018 and no invoice issued by the Solicitor.
- In FY 2018, the Solicitor charged SP52948 \$5,550.00 (plus GST) 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.
- OLSC made a judgement on 31 May 2013 in file 41366_2, in which this was acknowledged the Solicitor partially acted in breach of legal obligations. OLSC confirmed that his "Fee Proposals" did not fully comply with the costs disclosure requirements set out in section 309 of the Legal Professions Act 2004 (LPA).
- Solicitor was actively involved in the creation of the Statutory Declaration with eight crucial emails still missing as evidence, 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 April 2013.
- Eight emails that are part of the Statutory Declaration signed by Mr. Peter Bone are crucial and "nobody" seems to have them or prove they existed. 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 speeding fine. Justice James said the retired judge engaged in "deliberate, premeditated perjury" in order to avoid incurring demerit points on his driver's licence.
- Solicitor must not engage in helping members of the SP52948 Executive Committee to directly or indirectly cause physical or mental harm to Lot 158 just because they found strong evidence of financial mismanagement in the complex. This especially applies to a female owner, who has special medical conditions and any stress can kill her (medical certificate confirms it).
- During 2012, Solicitor Adrian Mueller failed to comply with CTTT orders for the Hearing three times as well.
- Four fraudulent insurance claims for non-existent CTTT case "Defence of Lot 3", which, four years later, CHU Insurance forced owners corporation to repay \$8,800.00.
- Over the last seven years, Solicitor was well informed and had received numerous pieces of evidence that SP52948 did not have valid Executive Committee and that their decisions were not made with valid quorum at general meetings, as per SSMA 1996 and 2015. Failing to know that a contract for his engagement had to be valid is negligent to the extent that disciplinary action can and should be taken due to repetitive nature of his involvement.
- 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.

- Solicitor engaged in personal threats and bullying trying to prevent CTTT cases in period 2012-2014.
- Solicitor continued to delay CTTT proceedings in spite of persistent requests to provide evidence of his legal engagement for six months (until 19 April 2013).
- Duty of care arises where it is reasonable to expect that Lot 158 might be injured or harmed if they act or behave with a lack of care. This is called foreseeability. Just during 2018, these events occurred:
 - Police Event E244254697 on 26 March 2018, which ended with Lot 158 female owner being taken to emergency due to fear of stalking and intimidation with blood pressure 218/109 (she had two mild strokes 12 years ago and any stress can literally kill her – she is even excused from Jury duty due to multiple medical conditions),
 - Police Event E69860959 on 26 October 2018, with another attempt to stalk, bully, and intimidate Lot 158 female owner,
 - Police Event E265804296 on 14 November 2019, attempt to intimidate and threaten even male owner of Lot 158 whilst collecting information about OH&S and smoking in the complex.
- Solicitor worked against owners corporation by merely protecting own interests and interests of a group of selected Executive Committee members of which some had/have not been legal to represent owners corporation. With knowledge that his contract was NOT signed on the date as listed in Statutory Declaration to CTTT on 19 April 2013, Solicitor continued to misrepresent the owners corporation to this day (including the District Court mediation in February 2014).
 - Solicitor must not provide a statement which they know to be untrue,
 - Solicitor must act with honesty, integrity and candour,
 - Solicitor must correct any statement made subsequently discovered to be wrong,
 - Solicitor must avoid conflicts of interest,
 - Solicitor must avoid any compromise to their integrity and professional independence,
- Solicitor's continuous actions constitute repetitive, premeditated, orchestrated efforts to:
 - Mislead the Court,
 - Abuse the Court's processes (continuing with court proceeding found to be wrongly conceived) and much more.

d) Crime Stoppers Report dated 25 July 2017 which evolved into Police Event E65804633. Some of the persons of interest listed in the Event with allegations of misconduct and acts against the laws:

Mr. Stan Pogorelsky

Mr. Moses Levitt

Mrs. Maureen McDonald

Waratah Strata Management (Mr. Robert Crosbie and Mr. Simon Wicks)

Solicitor Mr. Adrian Mueller

e) Based on referral by the Member of Parliament, Minister for Innovation NSW Matthew Kean asked Fair Trading NSW to consider the concerns about SP52948 and strata managers on 10 October 2017. Since that time, Fair Trading NSW has been gathering evidence and files about BCS Strata Management, Waratah Strata Management, and SP52948 (mis)management. Fair Trading NSW is conducting its own investigations, without Lot 158 formally raising any case. Waratah Strata Management is well aware of file 9363613 because they responded to Fair Trading NSW this year.

The fact that most of financial and many other files do not exist for SP52948 (as confirmed in document search on 13 June 2017 and 31 May 2019) creates serious issues for the Executive Committee and the strata managers. This might be of interest to the Australian Taxation Office as well.

f) Lot 158 has evidence that two current members of the Executive Committee (lot 147 and Lot 181) could not and cannot be legal representatives of the owners corporation and have no rights to be on the committee. A small hint for a few years (Lot 158 will not offer full details in this email):

- Not paid any levies in FY 2004, FY 2008, FY 2012, FY 2013, and possibly FY 2018 (based on Waratah Strata Management own statements at meetings in 2019). Lot 158 recently located four more financial years and this statement might extend.
- Not paid proper levies in many other years.
- Not paid prescribed 10% simple interest for years when levies were overdue.
- They also provided statements to CTTT in 2011 and 2012 which can now easily be seen as false.

This applies to other owners with second gas connection too.

Unredacted evidence in document "20190618-WITHOUT PREJUDICE_ Request to stop wasting strata funds on legal expenses that cannot succeed – 18Jun2019-455.pdf".

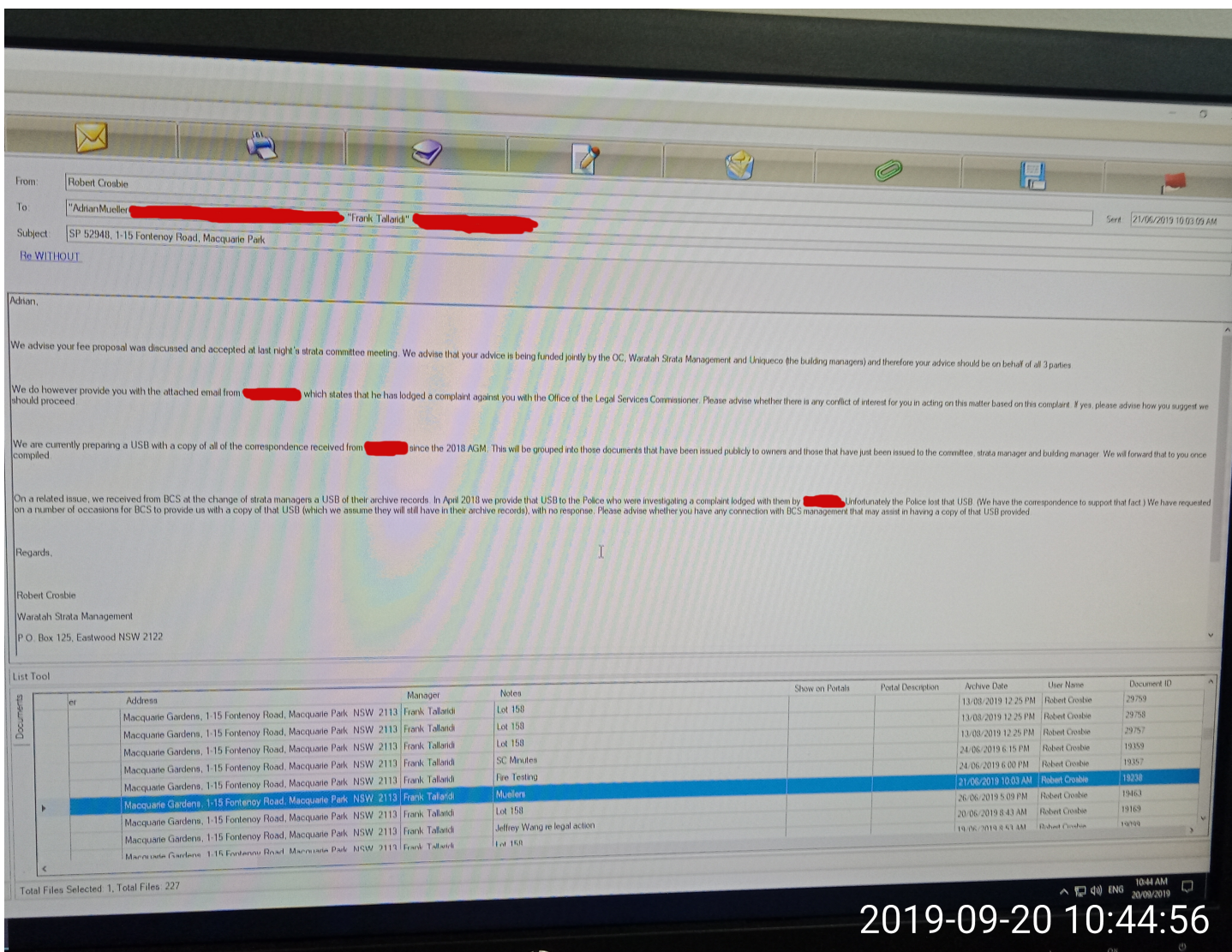
56) On 21 June 2019, Solicitor Adrian Mueller was notified by Waratah Strata Management that Mr. LOT 158 initiated OLSC case against him. Extract from email:

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 of the correspondence received from Mr LOT 158 since the AGM 2018. This will be grouped into 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 Mr. 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



In spite of question being asked about his possible conflict of interest, Solicitor Adrian Mueller ignored it and then failed to offer assistance to OLSC.

Unredacted evidence in document "SP52948-email-from-Waratah-Strata-Management-to-Solicitor-Adrian-Mueller-21Jun2019.jpg".

57) In spite of Solicitor Adrian Mueller being fully aware that there is an OLSC case 56561, he appeared not to be concerned about any conflict of interest and continued to represent owners corporation SP52948 and was allegedly approved (without any evidence of signed Standard Costs Agreement) in minutes of committee meeting on 20 June 2019:

4 CORRESPONDENCE

Resolved that the following correspondence received was tabled and discussed:

- Email from Ryde Council regarding maintenance of adjoining parkland - Jeffrey Wang and John Gore are to raise this issue with the Ward Aldermen from Ryde Council.
- Fee proposal from JS Mueller & Co (Lawyers) to review correspondence from Lot 158 since 2018 AGM and provide legal advice - Resolved that the fee proposal from JS Mueller to provided legal advice on the correspondence that has been distributed to owners by the owners of Lot 158 since the 2018 AGM is accepted. Waratah Strata Management and Uniqueco (Building Managers) have each agreed to contribute 1/3 of the cost of this legal advice.
- Draft letter to owners - A letter is to be sent to all owners to refute statements that have been made by the owners of Lot 158.
- Email from Pipenetworks regarding installation of FTTB Equipment - The strata committee agree with the installation of an alternative internet connection to the property, with this recommendation to be included on the agenda of the 2019 AGM for approval by the Owners Corporation.
- Letter from Transport for NSW regarding Fontenoy Road - A letter was tabled from Transport for NSW to advise that the committees request for a "KEEP CLEAR" area marked on the road in front of the property, allowing right turn from the driveway at any time, will be reviewed in the near future as part of a multi-modal road strategy for the Lane Cove corridor between Devlin Street, Ryde and the Pacific Highway, Gordon.
- Correspondence from Lot 158 - All correspondence received from the owners of Lot 158 is to be referred to JS Mueller as part of the legal review and whether it is in breach of the "Unreasonable Communications" by-law.

Unredacted evidence in document "SP52948-Minutes-EC-meeting-20Jun2019.pdf".

Letter secretly sent to owners by Waratah Strata Management (we did not receive it) is in unredacted document "SP52948-Waratah-Strata-Management-correspondence-to-owners-about-Lot-158-25Jun2019.pdf". It is full of horrific accusations against Mr. LOT 158, without any evidence.

Similar attempts to discredit Mr. LOT 158 was secretly sent to all owners on 21 July 2017, which was prepared by three unfinancial owners who had no legal right to be members of the committee or vote (Mr. Stan Pogorelsky, Mr. Moses Levitt, and Mrs. Lorna Zelenzuk) and not only made disturbing false accusations but Solicitor Adrian Mueller was certainly aware of them.

Unredacted evidence in document SP52948-EC-letter-to-owners-whilst-three-members-unfinancial-and-not-legal-to-be-on-the-committee-21Jul2017.pdf".

58) Solicitor Adrian Mueller prepared Deed of Agreement for Lot 158 before Annual General Meeting in October 2019, which Waratah Strata Management presented in person to Mr. LOT 158, threatening serious legal action if Mr.s and Mr. LOT 158 both did not sign it immediately:

1. Promises

- (a) _____ agree not to communicate, or cause any other person to communicate on their behalf, any further in any written form with the Owners Corporation, the Strata Committee, the Owners and Occupiers, Waratah Strata and Uniqueco including, but not limited, through emails or letters or via the Internet.
- (b) _____ further agree not to publish, or cause any other person to publish, any further material either verbally or in writing including by email or letters or via the Internet that is defamatory of the Owners Corporation, the Strata Committee, the Owners and Occupiers, Waratah Strata and Uniqueco Owners Corporation.
- (c) _____ further agree to remove all of the Defamatory Publications which have been published on the Internet within fourteen (14) days including, but not limited to, removing any Defamatory Publications from any online forums and websites and _____ also agree to take down the website with the URL: www.nswstratasleuth.id.au within fourteen (14) days and not to reinstate, or cause any other person to reinstate, that website.

2. Permitted Communications by

- (a) Despite clause 1, the Parties agree that _____ may communicate verbally or in writing with the Owners Corporation, the Strata Committee, Other Owners and Occupiers, Waratah Strata and Uniqueco in relation to any maintenance or repairs that are required to the common property in connection with Unit 158 in the Strata Scheme.
- (b) _____ agree that any communications referred to in clause 2(a):
- (i) _____ must be polite and courteous;
 - (ii) _____ in the case of written communications – must not exceed one communication each week or 300 words in any single communication or both;

Unredacted evidence in document “Adrian-Mueller-LOT 158-Deed-of-Agreement-17Oct2019.pdf”.

59) In letter sent by Solicitor Adrian Mueller to O'Brien Criminal & Civil Solicitors (who represented Lot 158), he categorically denied access to strata files and even questioning why we would need to have such strata documents on 14 November 2019:

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 Mr and Mrs LOT 158 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 Mr and Mrs LOT 158's entry into the deed should be conditional on those requests being met.

Mr 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 Mr LOT 158 during those inspections as a result of which if Mr LOT 158 does not have any records that he desires that is because those records are likely not available.

Equally importantly, if Mr 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 Mr 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 Mr LOT 158's 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 Mr LOT 158 the same rights in relation to the maintenance of his property as the rights that are enjoyed by other owners.

Unredacted evidence in document ""Letter to OBrien Criminal and Civil Solicitors-14Nov2019.pdf".

14 November 2019



O'Brien Criminal & Civil Solicitors
P.O. Box 20073
WORLD SQUARE NSW 2002

Our Ref: AM:JAT:34813
Your Ref: Stewart O'Connell

By Email: stewart.oconnell

"Without Prejudice Save as to Costs"

Dear Sir

RE: THE OWNERS – STRATA PLAN NO. 52948 & ORS -&- [REDACTED]

We act for The Owners – Strata Plan No. 52948 (owners corporation). We have been instructed to respond to your without prejudice letter to the strata managing agent of the owners corporation, Mr Robert Crosbie of Waratah Strata Management Pty Ltd, dated 30 October 2019.

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.

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 [REDACTED] the same rights in relation to the maintenance of his property as the rights that are enjoyed by other owners.

Unredacted evidence in document "Letter to OBrien Criminal and Civil Solicitors-14Nov2019.pdf".

60) On behalf of Lot 158, O'Brien Criminal & Civil Solicitors requested response on several matters on 24 April 2020. Request was not complied with by Solicitor Adrian Mueller and his barrister.

Unredacted evidence in document "LOT 158Letter24April.pdf".

In the request, O'Brien Criminal & Civil Solicitors stated:

Mr. LOT 158 has provided us with material that raises serious questions as to the workings and legality of the Executive Committee (the committee) of the Owners Corporation of Strata Plan 92548. We have been instructed by Mr. LOT 158 to commence proceedings in the NSW Civil & Administrative Tribunal (NCAT) aimed at questioning the legality of various decisions of the committee and at obtaining orders that the committee fulfill certain obligations where it has been negligent.

It would be in the best interests of all parties to resolve this situation without the need to escalate matters into the NCAT.

Further, O'Brien Criminal & Civil Solicitors requested evidence and response on:

- Legality of Committee
- Mr. LOT 158 a Member of The Committee
- Defamation

- Mediation
- Access to Documents

Some of the documents requested:

DOCUMENTS REQUIRED TO BE AVAILABLE FOR INSPECTION

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)

Response has never been received, in spite of multiple requests.

- 61) Committee meeting on 7 May 2020 gave owners appearance that an unnamed barrister (their signed Standard Costs Agreement has also never been provided to any owner) would respond to O'Brien Criminal & Civil Solicitor's demands:
- 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

Unredacted evidence in document "SP52948-Minutes-EC-meeting-7May2020.pdf".

Strata manager, Solicitor Adrian Mueller, and committee members never followed up on this commitment and have not reported it to owners.

- 62) On 27 July 2020, Mr. LOT 158 made attempt to reason with members of the committee by asking them to respond to O'Brien Criminal & Civil Solicitor's demands dated 24 April 2020. The email, in part, contained the following request:

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.

Committee members ignored the requests and did not reply.

Unredacted evidence in document "20200727-CONFIDENTIAL OFFER_ SP52948 Your actions today and tomorrow-1007.pdf"

- 63) On 29 July 2020, Mr. LOT 158 sent an email to Waratah Strata Management advising that this offer to settle problems privately expired. Strata manager did not reply.
- 64) Email correspondence from Lot 158 to Waratah Strata Management: 381 messages were sent in period 2 January 2019 to 9 May 2021. Examples of repetitive emails that Waratah Strata Management, committee members, and Solicitor Adrian Mueller largely ignored:
- 41 complaints about smoking in the complex and faulty/expired smoke alarms in the Applicant's unit (one of the smoke alarms in our unit expired in 2005 and was declared faulty in fire inspection in 2020 and 2021 and not replaced until October 2021, the second smoke alarm expired in 2019 and was declared faulty in fire inspection in 2020 and 2021 and only replaced in October 2021),
 - 18 complaints about stalking/intimidation/harassment of the Applicant by maintenance staff and selective members of the executive committee,
 - 12 Police events for stalking, harassment, intimidation, and threats against Lot 158 by few maintenance staff, few committee members, and some tenants in the complex,

- 8 request to obtain access to CCTV recordings for stalking, harassment, intimidation, and threats against Lot 158 were silently ignored by Waratah Strata Management, committee members, and maintenance staff (even Police did not get access to them),
- 45 requests to strata manager and executive committee to offer assistance to Police with their investigations of fraud and stalking/harassment/intimidation of us by maintenance staff and selective members of the executive committee,
- Solicitor Adrian Mueller and committee members are directly responsible or had fully knowledge and took no action to prevent repeated threats, intimidation, harassment, and even death warnings to Mr. LOT 158. Solicitor failed to inform NCAT about it and, by not attending the Hearing, coerced the Tribunal to ignore Lot 158's evidence. File provided to committee members on 30 August 2021. No response was received:

"SP52948-serious-threats-to-Lot-158-due-to-strata-mismanagement-investigations-Aug2021.pdf"

- Example from submission by now-deceased committee member in file SCS 11/00711 dated 14 February 2011:

Also as Australia is a democracy it is a free decision of each owner whether to attend the meetings or not, not a dictatorship Mr D. LOT 158 was educated under by Marshall Tito of Yugoslavia.

- On 9 September 2013 committee member Mr. Bruce Copland instructed BCS Strata Management to make Mr. LOT 158's document search as "inconvenient as possible", which ended with most files not found in strata manager's office.
- Extract from secret email by Waratah Strata Management and committee members to Police on 13 April 2018:

We have not yet obtained legal advice, but it is possible that DB is in breach of this Deed of Settlement by making his current current allegations to Police...

The strata committee are extremely concerned that DB is continuing to waste Police time on these false accusations.

- Extract from letter sent to all owners by three unfinancial owners (who had no rights to be on the committee or vote at meetings due to unpaid levies since 1999 (2001 for one of them) (Mr. Stan Pogorelsky, Mr. Moses Levitt, and Mrs. Lorna Zelenzuk) on 21 July 2017:

A letter has been received by the SC from a resident objection to DB taking photographs of her residence. He has also been seen searching through Recycle Bins on the property. Residents are advised to shred all personal documents disposed of in the recycle bins. DB has also conducted an inspection of the OC records held by the strata manager (as all owners are entitled, but has then disclosed personal information in his emails to owners. Legal advice is currently being obtained to advise the SC how to legally prevent this behaviour.

DB has previously made accusations to the Police against past and present members of the committee and employees of the Building Manager. On Police examinations of his claims they dismissed his charges as baseless.

However, DB is at present facing a charge of assault against one of the employees of the Building Manager. You are encouraged to ignore his misinformed, inaccurate and twisted version of events. Correspondence such as that being distributed by DB has a serious impact on the harmony within the property and the value of your units.

Macquarie Gardens does not have a history of overdue levies...

Correspondence such as that being distributed by DB has a serious impact on the harmony within the property and the value of your units. Any prospective purchaser of a unit within the building will carry out an inspection of the strata books and records. When those records disclose serious disharmony, many owners may choose not to purchase a unit in your building, reducing the competition from buyers and the price achieved.

All invoices issued to me in relation to gas levies have been paid (Mrs. Lorna Zelenzuk).

The allegation that his by-law has been hidden is false. By-law #4 appears in the list of Macquarie Gardens By-Laws (Mrs. Lorna Zelenzuk).

Horrible accusations, in spite of strata manager and committee members knowing they were false and utterly fabricated (Mr. LOT 158 provided to NCAT Police oral and written statement which proves the above statements were false).

- Extract from email sent by unfinancial owner Mr. Stan Pogorelsky (CC-ed to all other members of the committee) on 3 April 2017, when CHU Insurance requested repayment in amount of \$8,800.00 for insurance claims made for costs of Solicitor Adrian Mueller in 2012 and 2013. In email, the committee members threatens Mr. LOT 158 to not disclose to insurance company details of the fraudulent insurance claims:

The Executive Committee will discuss and alter or confirm the minutes of the previous committee meeting at the next available committee meeting. Your request for alteration of the minutes will be discussed at that meeting.

You are not permitted to speak directly with CHU Insurance. You have no authority to speak to them and must direct your concerns to the strata manager who will pass your concerns on to CHU if appropriate.

- Extract from Minutes of committee meeting on 21 March 2019, after Mr. LOT 158 successfully prevented strata and building manager to illegally use Ryde Council land for parking, in spite of being warned by Ryde Council that such activities were against the law. The statement imply that I would be responsible for attracting snakes and other vermin:

Use of visitor parking spaces and Council parkland - It is noted that the owners of Lot 158 have lodged multiple complaints with Council about residents use of the Council parkland at the rear of the property for parking. As a result of those complaints Council are now preventing residents from using that area for parking. It is also noted that the Owners Corporation will no longer be permitted to maintain that parkland and that Council will only mow the area every 2 - 3 months, so the area is likely to become overgrown and attract mice, rats, snakes and other vermin.

- Extract from secret email by Waratah Strata Management and committee members to Fair Trading NSW on 17 May 2019 (whilst three of nine members were unfinancial to vote or be on the committee due to unpaid levies since 1999 and one was unfinancial since 2001, Mr. Stan Pogorelsky, Mr. Moses Levitt, and Mrs. Marianna Paltikian), whilst preventing access to strata documents:

An Owners Corporation is a democracy – everyone has a say and everyone a vote and the majority rules. 218 owners in SP 52948 are very happy with the operation of the Owners Corporation and its strata committee. One owner thinks all of the other owners are idiots or thieves. Why should the OC and SC have to continue to respond to and waste its time and resources on one recalcitrant, obsessive owner.

- Extract from secret email by Waratah Strata Management and committee members to Fair Trading NSW on 20 May 2019 (11 days before Lot 158 had scheduled document search at the strata manager’s office):

Some of the SC members have expressed concern about the information provided to you being provided to Mr LOT 158, specifically the Strata Roll, including the owners contact details. Mr LOT 158 has for many years emailed many of the owners that he has been able to obtain email addresses for...The SC understands that Mr LOT 158 is entitled to obtain a copy of the Strata Roll when he conducts a strata inspection, but he is not entitled to a copy of the owners contact details.

11 days later, Lot 158 was not given any access to Strata Roll whilst in strata manager’s office.

- Extract from email by Waratah Strata Management to me trying to ignore the fact that they allowed unfinancial owners to vote and be elected on committee (in full non-compliance with strata laws):

You may not understand the concept of a democracy, but at the legally convened Annual General Meeting a ballot was held to elect the strata committee in accordance with the Strata Schemes Management Act at which time 9 owners received 65 votes each and you received 1 vote – your own. You must be delusional if you think you are a validly elected member of the Executive Committee.

- 82 requests to add our Motions for owners to vote and consider at meeting,
- 19 complaints about dangers in the complex (due to lack of maintenance and compliance with by-laws)

Currently, there are three outstanding repairs and checks in our unit which strata manager, maintenance staff and committee members refuse to attend to.

Unredacted evidence in document “SP52948-used-Unreasonable-Communications-Special-By-Law-against-Lot-158-six-times-without-disclosure-to-NCAT-SC-20-33352.pdf”.

Evidence of threats to us (Solicitor Adrian Mueller has been fully aware of and took no actions to prevent them) in document “SP52948-serious-threats-to-Lot-158-due-to-strata-mismanagement-investigations-Nov2021.pdf”.

65) Another attempt to communicate with Solicitor Adrian Mueller was on on February 2022, email to him titled:

“OLSC case CAS005901 - Request for Solicitor Adrian Mueller to respond with evidence on 8Feb2022”

No response was received.

Narrative 2 (Reasons for and outcome of NCAT case 20/33352)

66) In letter sent by Solicitor Adrian Mueller to O'Brien Criminal & Civil Solicitors (who represented Lot 158), he categorically denied access to strata files and even questioning why we would need to have such strata documents on 14 November 2019:

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 Mr and Mrs LOT 158 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 Mr and Mrs LOT 158's entry into the deed should be conditional on those requests being met.

Mr 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 Mr LOT 158 during those inspections as a result of which if Mr LOT 158 does not have any records that he desires that is because those records are likely not available.

Equally importantly, if Mr 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 Mr 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 Mr LOT 158's 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 Mr LOT 158 the same rights in relation to the maintenance of his property as the rights that are enjoyed by other owners.

Unredacted evidence in document ""Letter to OBrien Criminal and Civil Solicitors-14Nov2019.pdf".

67) Lot 158, with attempt to avoid costs to all parties, initiated Fair Trading NSW mediation case 00351498 on 6 March 2020. All past mediation attempts, which were FREE of costs to all parties, were rejected by owners corporation.

68) Agenda for paper committee meeting with a single Motion to vote in regards to Fair Trading NSW mediation request was prepared by Waratah Strata Management on Saturday 7 Mar 2020 at 11:27 hours.

69) Paper committee meeting was scheduled for 12 March 2020 at 16:00 hours:

NOTICE OF A STRATA COMMITTEE MEETING
THE OWNERS - STRATA PLAN 52948

ADDRESS OF THE STRATA SCHEME:

Macquarie Gardens, 1-15 Fontenoy Road, Macquarie Park NSW 2113

DATE, PLACE & TIME OF MEETING: A meeting of the Strata Committee of The Owners - Strata Plan 52948 will be held on 12/03/2020 at the offices of Waratah Strata Management, Suite 200, 160 Rowe Street, Eastwood. The meeting will commence at 04:00 PM.

This meeting is being held in accordance with Schedule 2 Sec 9(2) of the Strata Schemes Management Act 2015. It is not necessary for you to attend this meeting in person. Please complete and return the attached written voting form prior to the meeting.

The Agenda for the meeting is:

1 MINUTES

That the minutes of the previous strata committee meeting be confirmed as a true record of the proceedings of that meeting.

2 MEDIATION

That the Strata Committee - Strata Plan 52948 resolves to accept the invitation to mediate at the Office of Fair Trading on 16 April 2020, as the respondent, in relation to various items raised by the applicant, Mr. Dusan Baljevic of Lot 158 (NSW Fair Trading mediation file no: 00351498).

I of The Owners - Strata Plan. 52948, vote as follows to the Strata Committee meeting to be held on 12 March 2020;

Motion1: In favour Against

Motion 2: In favour Against

Signature: dated:

Date of this notice: 07 March 2020

The agenda was not detailed, and had no information about Fair Trading NSW case for owners:

Notice fails SSMA 2015, Schedule 2, Part 2(7):

The notice of a meeting must include a detailed agenda for the meeting.

70) Lot 158 have not received any copies of notices for meetings since 2018.

71) This notice, as all other notices sent by Waratah Strata Management since 2018 failed to satisfy SSMA 2015, Schedule 2, Part 2, 4(1) and Schedule 1.18 of the Justice Legislation Amendment Bill (No 3) 2018 (NSW) that amended section 76 (1) (b) of the Interpretation Act 1987 (NSW).

The changes extend the time it takes to effect service by post for notices and documents from four to seven working days after the day of postage.

This legislative change was assented to on 28 November and has immediate impacts on the time required to serve notices and documents under strata and community title legislation, such as notices of meetings and notices of action as to proposed levy recovery proceedings.

The change adds significantly to the lead time for the calling of all meetings given that the extended period of seven days both necessitates that some weekend days will be caught, as well as increasing the occurrences of one or more public holidays falling within the service by post period. The day of the meeting must be excluded from the calculation of service by post under section 36 of the Interpretation Act 1987 (NSW).

72) The actual meeting happened five days later, without any updated given to owners, on 17 March 2020 at 09:00 hours.

73) Owners corporation declined to attend free-of-costs mediation in Fair Trading NSW case 00351498 on 17 March 2020, without providing owners with details of the case, or giving owners copy of the mediation request.

Three committee members (out of nine), who voted against free mediation, were unfinancial to vote or be on the committee due to unpaid levies: Mr. Moses Levitt, Mr. Stan Pogorelsky, and Mrs. Marianna Paltikian.

74) On 25 March 2020, Lot 158 sent the following email to Waratah Strata Management, which was never tabled in minutes of any meeting or shared with owners. The Subject line of the email was:

“SUMMARY: Waratah Strata Management refusal to notify owners about critical issues including Fair Trading Mediation and expired contract with Waratah Strata Management”.

No reply was received.

75) On 24 April 2020, on behalf of Lot 158, O'Brien Criminal & Civil Solicitors sent request to owners corporation. In the request, O'Brien Criminal & Civil Solicitors stated:

Mr. LOT 158 has provided us with material that raises serious questions as to the workings and legality of the Executive Committee (the committee) of the Owners Corporation of Strata Plan 92548. We have been instructed by Mr. LOT 158 to commence proceedings in the NSW Civil & Administrative Tribunal (NCAT) aimed at questioning the legality of various decisions of the committee and at obtaining orders that the committee fulfill certain obligations where it has been negligent.

It would be in the best interests of all parties to resolve this situation without the need to escalate matters into the NCAT.

Further, O'Brien Criminal & Civil Solicitors requested evidence and response on:

- Legality of Committee
- Mr. LOT 158 a Member of The Committee
- Defamation
- Mediation
- Access to Documents

Some of the documents requested:

DOCUMENTS REQUIRED TO BE AVAILABLE FOR INSPECTION

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)

Request was not complied with by Solicitor Adrian Mueller and his barrister.

Unredacted evidence in document "LOT 158Letter24April.pdf".

Response has never been received, in spite of multiple requests.

76) Committee meeting on 7 May 2020 gave owners appearance that an unnamed barrister (their signed Standard Costs Agreement has also never been provided to any owner) would respond to O'Brien Criminal & Civil Solicitor's demands:

- 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

Unredacted evidence in document "SP52948-Minutes-EC-meeting-7May2020.pdf".

Strata manager, Solicitor Adrian Mueller, and committee members never followed up on this commitment and have not reported it to owners.

77) On 27 July 2020, Mr. LOT 158 made attempt to reason with members of the committee by asking them to respond to O'Brien Criminal & Civil Solicitor's demands dated 24 April 2020. The email, in part, contained the following request:

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.

Committee members ignored the requests and did not reply.

Unredacted evidence in document "20200727-CONFIDENTIAL OFFER_ SP52948 Your actions today and tomorrow-1007.pdf"

78) On 29 July 2020, Mr. LOT 158 sent an email to Waratah Strata Management with offer to settle problems expired. It was ignored.

79) On 13 August 2020, Waratah Strata Management sent this email to Solicitor Adrian Mueller:

From: Robert Crosbie ·
Sent: Thursday, 13 August 2020 7:01 PM
To: Adrian Mueller ·
Subject: FW: SP 52948, 1-15 Fontenoy Road, Macquarie Park

Adrian,

We have received the attached NCAT notice of directions hearing following action commenced by [REDACTED]. We ask you to provide a fee proposal to attend to this matter on behalf of the OC. We also ask you to provide advice on whether your legal fees can be approved by the strata committee or whether they will need to go to a general meeting. Please provide the appropriate motions.

I also advise that we are still waiting on advice from the barrister on the defamation claim. He did try calling me today, so I will speak with him tomorrow. I understand the barrister will not be able to write directly to [REDACTED] so that action will also go through you.

Regards,

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

E. (02) 9114 9598

80) On 20 August 2020, Solicitor replied:

From: Adrian Mueller ·
Sent: Thursday, 20 August 2020 6:53 PM
To: Robert Crosbie
Subject: RE: SP 52948, 1-15 Fontenoy Road, Macquarie Park (JSM 34504)
Attachments: Costs Agreement (SP52948).pdf

Robert

Thank you for inviting me to submit a fee proposal.

I would charge approximately \$25,000 + GST to act for the owners corporation in the legal proceedings in NCAT commenced by [REDACTED].

This amount is an estimate only. The actual amount of my fees will depend on a range of factors including the manner in which the [REDACTED] conduct the NCAT case and the volume of evidence they rely on.

You should include the following motion in the agenda of a general meeting to approve the appointment of my firm to act for the owners corporation in the NCAT case:

THAT the owners corporation RESOLVES pursuant to section 103 of the Strata Schemes Management Act 2015 to defend the proceedings commenced by the owners of unit 158, [REDACTED] in the NSW Civil and Administrative Tribunal (File No. SC 20/33352), to engage J.S.Mueller & Co. Lawyers to act for the owners corporation in the Tribunal proceedings on the terms of that firm's attached costs agreement issued on 20 August 2020 and to authorise and direct the strata managing agent to give instructions to J.S.Mueller & Co. concerning the conduct of the Tribunal proceedings.

Explanatory Note: This is a motion to authorise the owners corporation to defend proceedings in NSW Civil and Administrative Tribunal and appoint J.S.Mueller & Co. Lawyers to act for the owners corporation in the Tribunal proceedings.

I have specialised in strata law for over 18 years and have previously acted for many owners corporations in cases in NCAT. The strata committee and owners can view my credentials and a selection of the cases in which I have appeared on our website 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.

Adrian Mueller
Partner | BCOM LLB FACCAL
JS Mueller & Co Lawyers

81) Mr. LOT 158 provided five methods for evidence and four were ignored by the Tribunal: DVDs, USB keys, emails, and secure website.

Tribunal ignored their own order given at Directions Hearing to provide files on secure website, which Lot 158 complied with in late September 2020.

Mr. LOT 158 provided full secure website login details to the Respondent (including request to allow all SP52948 to view them, which was ignored by the Respondent) on:

Subject	Recipient	Correspondents	Date
CONFIDENTIAL: NCAT SC 20/33352 website access	Stuart Greene, robert Crosbie		25/9/20, 12:13 pm
SUMMARY: NCAT SC 20/33352 and files for John Gore			25/9/20, 3:52 pm
SUMMARY: NCAT SC 20/33352 and files for Stan Pogorelsky			25/9/20, 3:53 pm
SUMMARY: NCAT SC 20/33352 and files for Moses Levitt			25/9/20, 3:55 pm
SUMMARY: NCAT SC 20/33352 and files for Thomas Karolewski			25/9/20, 3:57 pm
SUMMARY: NCAT SC 20/33352 and files for Jeffery Wang			25/9/20, 3:59 pm
Fwd: SUMMARY: NCAT SC 20/33352 and files for EC members			25/9/20, 4:09 pm

Unlike strata documents held at BCS Strata Management and Waratah Strata Management which experienced alleged multiple data losses (including ransomware attack in 2019 which has many holes in the Respondent's story), files on Mr. LOT 158's website are guaranteed.

82) On 25 September 2020, Mr. LOT 158 sent details of secure website access to Waratah Strata Management for all owners in the complex, so that owners can be prepared for NCAT case, and also discuss it at the coming General Meeting on 22 October 2020. Subject line of the email was:

“CONFIDENTIAL NCAT SC 20/33352 website access for all owners”

Waratah Strata Management ignored the request silently and no owner received information about files.

83) On 2 and 3 October 2020, and in early 2021, in preparation for NCAT case SC 20/33352, Mr. LOT 158 sent polite but firm letters of demand to the following recipients, asking for them to be reasonable and avoid legal costs by simply offering evidence or refuting Mr. LOT 158's claims:

- Letter of demand to Pica Group managers (parent company of BCS Strata Management) on 2 October 2020
- Letter of demand to Mr. Stan Pogorelsky (ex-EC Chairperson and current EC member, who is alleged to be unfinancial due to unpaid full levies since 1999) on 2 October 2020
- Letter of demand to Mr. Moses Levitt (current EC member, who is alleged to be unfinancial due to unpaid full levies since 2001) on 2 October 2020
- Letter of demand to Mr. Jeffery Wang (current EC member) on 2 October 2020
- Letter of demand to Mrs. Maureen McDonald (long-term ex-EC member) on 2 October 2020
- Letter of demand to Mr. Robert Crosbie at Waratah Strata Management on 2 October 2020
- Letter of demand to Mr. Upali Aranwela (long-term ex-EC Treasurer, who is alleged to be unfinancial due to unpaid full levies since 1999) on 3 October 2020
- Letter of demand to Mrs. Lorna Zelenzuk (ex-EC Chairperson and EC member, who is alleged to be unfinancial due to unpaid full levies since 1999) on 3 October 2020
- Letter of demand to Mr. Peter Friede who is alleged to be unfinancial due to unpaid full levies on 3 October 2020
- Letter of demand to Ms. Joanne Hessink (ex-EC member) on 3 October 2020
- Letter of demand to Mr. Robert Lev who is alleged to be unfinancial due to unpaid full levies on 3 October 2020
- Letter of demand to Mr. Peter Yeend who is alleged to be unfinancial due to unpaid full levies on 3 October 2020
- Letter of demand to Mr. Thomas Karolewski (ex-Treasurer and current EC member) on 3 October 2020
- Letter of demand to Mrs. Genelle Godbee (current EC member) on 3 October 2020
- Letter of demand to Mr. John Gore (current EC member) on 4 October 2020
- Letter of demand to Mr. Francis Tso Yuan Chow who is alleged to be unfinancial due to unpaid full levies on 4 October 2020

- Letter of demand to Mr. Stuart Greene at Waratah Strata Management on 5 October 2020
- Letter of demand to Mr. John Ward (ex-EC Treasurer and EC member) on 6 October 2020
- Letter of demand to Mr. Bruce Copland (ex-EC Chairperson) on 6 October 2020
- Letter of demand to Mrs. Marianna Paltikian (current EC Secretary) who is alleged to be unfinancial due to unpaid full levies on 8 October 2020
- Repeated letter of demand to Pica Group managers (parent company of BCS Strata Management) on 2 November 2020
- Repeated letter of demand to Pica Group CustomerCare as per their public assurances to offer assistance on ProductReview website on 20 December 2020
- Final letter of demand to Pica Group CustomerCare as per their public assurances to offer assistance on ProductReview website on 13 January 2021
- Letter of demand to Solicitor Adrian Mueller one day before AGM 2020 on 21 October 2020

No reply was received from any of them.

- 84) On 21 October 2020, after received “threat” from Solicitor Adrian Mueller, Mr. LOT 158 sent two emails to Solicitor Adrian Mueller who again attempted to issue secret defamation threats BEFORE pending NCAT case (in this event it was SC 20/33352). Solicitor did not notify NCAT about this event. In the first email, Mr. LOT 158 said, amongst the others:

After Waratah Strata Management and committee members rejected to attend FREE mediation at Fair Trading NSW in March 2020, refused to respond to numerous attempts to reason with them, NCAT case 20/33352 was opened. The submitted files include firm evidence of Solicitor Adrian Mueller's past actions.

Letter of demand was sent to number of members of the committee and Waratah Strata Management to refute or confirm allegations with evidence.

You are requested to send your email/letter to O'Brien Criminal & Civil Solicitors and confirm the following as well:

a) That you have been approved to represent SP52948 strata committee and Waratah Strata Management at legally convened general meeting before today.

b) That owners and Lot 158 have been provided with signed Standard Costs Agreement at any time since 5 September 2019, when you were asked to create so-called Deed before AGM 2019 and owners corporation approval.

We thank you for your co-operation and support for NCAT case with full disclosure.

Solicitor never responded.

Unredacted evidence in document “SP52948-agenda-AGM-2020-sent-on-30Sep2020.pdf”.

Unredacted evidence in document “20201021-Re_Defamation Concerns Notice (JSM 34813)-1252.pdf”.

- 85) In the second email on 21 October 2020, Mr. LOT 158 made the repeated request to Solicitor Adrian Mueller to respond to O'Brien Criminal & Civil Solicitor's letter dated 24 April 2020:

YOU ARE REQUESTED to PROVIDE RESPONSE to all demands dated 24 April 2020, as per attachment.

The response with evidence must arrive by tomorrow before AGM 2020.

Solicitor never responded.

Unredacted evidence in document “20201021-IMMEDIATE RESPONSE REQUESTED for Lot 158 demands dated 24Apr2020-1254.pdf”.

- 86) Solicitor Adrian Mueller, failed to comply with NCAT Directions Hearing two times in case SC 20/33352.

- 87) Mr. LOT 158, two days before the NCAT Hearing, on 9 February 2021, sent email to members of the committee pleading with them to offer assistance to NCAT. The title of the email was:

“SUMMARY: NCAT SC 20/33352 Requests assisting Trubunal ignored so far – 9Feb202”

In it, it said, amongst the others:

We are two days away from NCAT Hearing. Every attempt to reason with alleged representatives (emphasis is on FINANCIAL OWNERS) of SP52948 were rejected.

Apart from official requests that are well defined and backed up by evidence, it is obvious that NCAT will also be asked to consider compulsory strata manager, as they can make such decision without formal request by any party. One of irrefutable legal cases (we have more) in favor of replacing current strata manager is:

Hoare and Ors v The Owners-Strata Plan No 73905 [2018] NSWCATCD 45

200 In respect of s 237 (3) (a) of the SSMA 2015, the Appeal Panel of the Tribunal stated in Bischoff v Sahade [2015] NSWCATAP 135 ('Bischoff') at [22]:

Circumstances in which the management structure may not be functioning or functioning satisfactorily include where the relevant level of management:

- (1) does not perform a required function, for example to properly maintain the common property;*
- (2) exercises a power or makes a decision for an improper purpose, for example conferring a benefit upon a particular Lot owner or group of Lot owners in a manner not authorised by the SSMA;*
- (3) fails to exercise a power or make a decision to prevent a contravention by Lot owners and occupiers of their obligations under the SSMA, including the Lot owners and occupiers obligation to comply with the by-laws; and*
- (4) raises levies and takes or defends legal action on behalf of the owners corporation in circumstances where such action is unnecessary or not in the interests of the owners Corporation or the Lot owners as a whole*

Of course, if Solicitor Adrian Mueller (or his representative) attempts to show up at the Hearing, his immediate dismissal will be requested as the first point of "discussion" and referral to Police and Office of Legal Services Commissioner suggested.

No reply was received.

- 88) At NCAT Hearing on 11 February 2021, Solicitor Adrian Mueller failed to present evidence of his signed Standard Costs Agreement, in spite of Mr. LOT 158's attempts to raise concerns about his retainer. Solicitor Adrian Mueller stayed silent and did not assist the Tribunal to refute Mr. LOT 158's statements in any form.
- 89) First 34-odd minutes of the Hearing were wasted on the Tribunal member trying to call Waratah Strata Management (two times), listening to Mr. LOT 158's statements about illegal representation of Solicitor Adrian Mueller, and then the Tribunal member complaining to Solicitor Mueller that he did not have any contact phone details for the committee members.

Solicitor Adrian Mueller wasted the court time and Mr. LOT 158's time:

- Tribunal called Mr. LOT 158 on their mobile at 09:26 hours.
- Only at 09:59 hours the Tribunal formally allowed Solicitor Adrian Mueller to represent the Respondent, without offering any evidence to allow Mr. LOT 158 to question it.
- When asked if all six committee members were still the Respondents in case SC 20/33352, Solicitor Adrian Mueller replied affirmatively. Tribunal repeated that question two times.

The response from Solicitor Adrian Mueller was false as he had knowledge that one of the committee members (Mr. Moses Levitt) resigned, as reported in Minutes of committee meeting on 11 November 2020 (Lot 158 did not receive notice of minutes of the meeting, so Mr. LOT 158 was prevented from having knowledge of it):

- Resignation of Mo Levitt from strata committee - Mo Levitt has submitted his resignation from the strata committee. A vote of thanks was passed to Mo for his many years of service to the committee.
- Appointment of replacement committee member - The strata committee have appointed Kathryn Cutler as the replacement committee member and welcome her to the committee.

- Whole Hearing process ended at 11:25 hours.

90) Tribunal member then proceeded to ask Solicitor Adrian Mueller if he wished to call the committee members himself. Solicitor responded that it was not necessary.

91) Tribunal member then offered to Solicitor Adrian Mueller an option to adjourn the Hearing, which Solicitor declined and wished to proceed.

Tribunal member did not warn Mr. LOT 158 that Solicitor Adrian Mueller would request NCAT to ignore Lot 158 due to committee members' absence from the Hearing.

92) Extract from Solicitor Adrian Mueller's invoice 101676 dated 11 December 2020 that directly conflicts with the Tribunal statement that they did not have contact details for the committee members, or shows that Solicitor Adrian Mueller never intended to allow committee members to attend the Hearing:

11 Dec 20	Letter to you providing advice on prospects for success in NCAT case
11 Dec 20	Email to NCAT providing contact details for telephone hearing

93) NCAT and Solicitor Adrian Mueller failed to inform Lot 158 that they had knowledge of who would attend the Hearing since December 2020.

94) Putting aside old attempts to talk with committee members, strata managers, and Solicitor Adrian Mueller, here are some of more recent attempts and pleas to reason with the Respondent:

- Email titled "Undisclosed Details of CHU Insurance Reimbursements Waratah Strata Management Contract details and Defamation of Lot 158 through false statements at EC meeting on 16 March 2017"
- Three document searches in Waratah Strata Management office (on 13 June 2017, 31 May 2019, and 20 September 2019), where access to many files was prevented by Waratah Strata Management
- Email titled "NSW Fair Trading - Reference Numbers 9363613 and 9761719 - Waratah Strata Management refuses to answer if security guards have valid licence and police checks for last two years - 16Sep2019"
- Email from O'Brien Criminal & Civil Solicitors' to Solicitor Adrian Mueller on 30 October 2020, which included request to access files that Lot 158 paid for but did not get at three document searches in Waratah Strata Management office
- Letter from Solicitor Adrian Mueller on 15 November 2020 rejecting all offers to mediate and refusing access to strata files.
- Attempt to mediate without costs at NSW Fair Trading in case 00351498 rejected in March 2020
- Motions for Annual General Meeting 2017, 2018, 2019, and 2020, which the Respondent failed to include in agenda for meetings and disallowed owners to vote
- Email titled "CHU Insurance claim and defamation of Lot 158 on 25 March 2017"
- Email titled "WITHOUT PREJUDICE Request to stop wasting strata funds on legal expenses that cannot succeed on 18 June 2019"
- Email titled "Request to disclose information if EC members were notified about two events for loss of SP52948 strata files in a timely manner on 11Aug2019"
- Email titled "INTERIM UPDATE: Request to provide information about alleged data breach at Waratah Strata Management and loss of SP52948 strata files on 17Feb2020"
- Email titled "Fwd: FOR OFFICIAL RECORDS: Too many attempts to communicate and reason with Lot 88" sent to Secretary of the committee on 25 March 2020
- Email titled "SUMMARY: Waratah Strata Management refusal to notify owners about critical issues including Fair Trading Mediation and expired contract with Waratah Strata Management - 25Mar2020"
- Email titled "WITHOUT PREJUDICE stop wasting strata funds on legal expenses that cannot succeed on 28 March 2020"
- O'Brien Criminal & Civil Solicitors' request to SP52948 to provide responses and detailed list of strata files to be provided to Lot 158 on 24 April 2020
- Email titled "FOLLOW UP ACTIONS Fraud Report and Police Event E65804633 on 29 April 2020"
- Email titled "REQUEST Waratah Strata Management website missing notice and minutes of EC meeting dated 9Jul2012 on 22 July 2020"
- Email titled "CONFIDENTIAL OFFER SP52948 Your actions today and tomorrow on 27 and 29 July 2020" with offer to avoid legal costs and Tribunal case
- Email titled "Fwd: CONFIDENTIAL OFFER: SP52948 Your actions today and tomorrow" about expired offer to strata manager and committee members on 29 July 2020
- Email titled "OFFICIAL REQUEST on 12 August 2020 to immediately return private property undelivered by Solicitor Adrian Mueller and Respondent since May 2012"

- Email titled "Failed notifications to SP52948 owners" on 18 September 2020
 - Email titled "NCAT SC 20/33352 and Lot 158 Motions for AGM 2020" including six quotes for strata and building management contracts on 25 September 2020 (which were ignored by the Respondent and owners not allowed to vote or consider them)
 - Email titled "URGENT CONFIRMATION FOR NCAT SC 20/33352 required on 27 September 2020 that Waratah Strata Management legally represented Respondent at Directions Hearing"
 - Lot 158 Letters of Demand to 23 Respondents (current and previous members of the committee and strata managers) pleading with them to refute or confirm Lot 158 evidence and statements and help NCAT in SC 20/33352 sent in October 2020
 - Email to Solicitor Adrian Mueller on 21 October 2020 to provide immediate response to O'Brien Criminal & Civil Solicitors for Lot 158 demands dated 24 April 2020 and provide evidence of his retainer to represent the Respondent
 - Email titled "NCAT SC 20/33352 Requests assisting Tribunal ignored so far on 9 February 2021"
 - Email titled "SUMMARY - SP52948 FAILURE TO MAINTAIN COMMON PROPERTY Lot 158 long-term problems as of 12May2021"
- 95) Mr. LOT 158 sent request to ex-committee member Mr. Moses Levitt to return private property (folder with SC 20/33352) in email dated 3 June 2021. The Subject line of the email was:

“REQUEST TO RETURN PRIVATE PROPERTY: Folder delivered for Moses Levitt in SC 20/33352”

The email said:

Based on fact that YOU were not part of proceedings in NCAT 20/33352 since your resignation in early November 2020, and failed to notify Tribunal at Hearing in February 2021, or notify the Tribunal in alleged cost submission in May 2021, please return the folder with all Lot 158 files.

The folder is private property to which you do not have rights to keep or use.

Reply was never received.

97) Mr. LOT 158 responded to Mr. Mueller on 19 July 2021 in email with Subject line:

“20210719-FIRST RESPONSE FOR COSTS TO SOLICITOR ADRIAN MUELLER NCAT File No. SC 20_33352 (JSM 37289)-1609”

Solicitor Adrian Mueller and NCAT received these requests:

*Good morning Solicitor Mueller,
CC: NCAT*

BCC: Five members of the executive committee and two strata managers at Waratah Strata Management

Many thanks for the generous letter and offer to settle alleged costs incurred by you in NCAT case SC 20/33352.

The Applicant, as always, welcomes opportunity to discuss and settle the costs once their validity is established.

The Applicant's three options for costs have been prepared and they will be submitted once some details are clarified.

To avoid any unnecessary expense, the Respondent is requested to provide the following UNREDACTED evidence in electronic form (Covid-19 restrictions justify it):

- 1. Copy of signed Standard Costs Agreement for engagement in NCAT 20/33352.*
- 2. Copy of email or proof of letter that Solicitor Adrian Mueller received a formal authorization to represent owners corporation in NCAT 20/33352. Legally, it would have to be done straight after the general meeting on 22 October 2020 so that the Respondent prepared their evidence for complying with Directions Hearing orders dated 25 September 2020.*
- 3. Copy of AUDITED detailed income and expenditure report for period 1 September 2019 to 31 August 2020. Economos signed the audited accounts on 3 November 2020, 12 days after the Annual General Meeting, in non-compliance with STRATA SCHEMES MANAGEMENT ACT 2015 – SECT 95 and STRATA SCHEMES MANAGEMENT REGULATION 2016 – REG 21).*
- 4. Copy of detailed income and expenditure statement for period 1 September 2020 to 19 July 2021 (today), which include proofs of payments to Solicitor Adrian Mueller.*
- 5. Copies of emails related to SUU insurance claim listed in Solicitor's invoice 103514 dated 6 May 2021 (as per attachment "Solicitor-Adrian-Mueller-extract-from-invoice-103514.png"). SUU declined to quote insurance renewal in 2012 due to Solicitor Adrian Mueller's high risks (refer to attachments).*
- 6. Copies of emails related to NCAT communications listed in Solicitor's invoice 103514 dated 6 May 2021 (as per attachment "Solicitor-Adrian-Mueller-extract-from-invoice-102134.png").*

It is in interest of the Respondent to be prompt and provide requested files (as per attachments and the Respondent's commitment to owners corporation in Minutes of committee meeting on 7 May 2020).

The Applicant is eagerly awaiting your response, which must be shared with NCAT.

Unredacted evidence in document “20210719-FIRST RESPONSE FOR COSTS TO SOLICITOR ADRIAN MUELLER NCAT File No. SC 20_33352 (JSM 37289)-1609.pdf”.

No reply or even an attempt to communicate was received from Solicitor Adrian Mueller, committee members, and strata managers, in July, August, September, October, November, and December 2021, and January 2022 (six and a half months).

98) On 25 July 2021, Mr. LOT 158 sent email to NCAT and committee members, requesting access to copies of audit files for Directions Hearing and Hearing in case SC 20/33352.

The email said:

Based on Solicitor Adrian Mueller's invoices in file CS 20/33352 (attachments "Extract-fro-alleged-costs-incurred-by-Solicitor-Adrian-Mueller-SC-20-33352.pdf"), it appears there was some correspondence between himself and NCAT that the Applicant was not provided with and did not have access to before or at the Hearing on 11 February 2021.

Applicant herewith request to obtain access to:

a) Audio copy of Directions Hearing on 25 September 2020.

b) Audio copy of Hearing on 11 February 2021.

c) All unredacted files that the Respondent and Solicitor Adrian Mueller shared with NCAT in file SC 20/33352.

Of special importance is Solicitor's email to NCAT on 11 December 2020 providing contact details for telephone hearing, and details of Solicitor's attending NCAT on telephone to discuss file inspection on 14 December 2020.

Note that Solicitor Adrian Mueller coerced CTTT in file SCS 12/33352 into making wrong decision at Hearing on 18 October 2012, by stating that Lot 3 could not be part of the proceedings because they were "absent" (similar effort as in SC 20/33352). The attachments contain details of it. Solicitor Adrian Mueller was warned about it on 19 October 2012 in email with subject "FACSIMILES SENT TO CTTT: SCS 12/32675 12/50450 and 12/50460 on 19 October 2012". He never replied or corrected his statements to CTTT. Applicant has paid for and has all audio copies of all three Hearings in SCS 12/33352. Solicitor's actions and consequences of his activities in SCS 12/32675 and SCS 12/5060, and direct responsibility in writing Statutory Declaration for strata manager on 19 April 2013 will be dealt with separately.

Please provide information how to pay for these services and receive the media and files listed in a) to c) above.

Regards,

PS. Definition of lie:

The most widely accepted definition of lying is the following: "A lie is a statement made by one who does not believe it with the intention that someone else shall be led to believe it" (Isenberg 1973, 248) (cf. "[lying is] making a statement believed to be false, with the intention of getting another to accept it as true" (Primoratz 1984, 54n2)). This definition does not specify the addressee, however. It may be restated as follows:

To lie = to make a believed-false statement to another person with the intention that the other person believe that statement to be true.

This is the traditional definition of lying. According to it, there are at least four necessary conditions for lying. First, lying requires that a person makes a statement (statement condition). Second, lying requires that the person believes the statement to be false; that is, lying requires that the statement be untruthful (untruthfulness condition). Third, lying requires that the untruthful statement be made to another person (addressee condition). Fourth, lying requires that the person intends that that other person believe the untruthful statement to be true (intention to deceive the addressee condition).

Cambridge Dictionary: To say or write something that is not true in order to deceive someone.

Merriam-Webster: Marked by or containing untrue statements.

Dictionary: Telling or containing lies; deliberately untruthful; deceitful; false.

No reply was received.

99) On 30 August 2021, Mr. LOT 158 initiated another request to NCAT and committee members. The email said:

Lack of responses from the Respondent and NCAT directly endanger safety, well-being, and value of property of the Applicant, along with many other owners in SP52948.

Due to size of some of the attachments, the escalation of our request is sent in several parts today.

We now wish to escalate, with high priority, the request dated 25 July 2021 (audio copy of Directions Hearing on 25 September 2020, audio copy of Hearing on 11 February 2021, and all unredacted files that the Respondent and Solicitor Adrian Mueller shared with NCAT in file SC 20/33352) under reasonable suspicion that the Respondent failed to act with duty of care and are, directly or indirectly, involved in threats and discrimination against the Respondent, are assessor and parties to crime: false statements to District Court, CTTT, Fair Trading NSW, Police, and Office of Legal Services Commissioner, financial mismanagement, fraudulent insurance claims, allowing significant financial losses to SP52948 owners corporation and the Respondent.

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.

NSW courts are empowered by the provisions of section 99 of the CPA to disallow costs to a party, or direct a practitioner to pay costs, if it appears to the court that costs have been incurred by the serious neglect, serious incompetence or serious misconduct of the practitioner, or improperly, or without reasonable cause, in circumstances for which a legal practitioner is responsible. This wide power to award costs personally against legal practitioners is in accordance with the overriding purpose as set forth in sections 56–60 of the CPA, and which requires the parties and their representatives to assist the court to further the just, quick and cheap resolution of the real issues in the proceedings: *Furlong v Wise & Young Pty Ltd* [2016] NSWSC 647, *Stevenson J Lemoto* at [92] and *Ideal Waterproofing Pty Ltd v Buildcorp Australia Pty Ltd* [2006] NSWSC 155.

In the first email today, the following attachments are submitted:

a) Solicitor Adrian Mueller and the Respondent directly responsible or had fully knowledge and took no action to prevent repeated threats, intimidation, harassment, and even a death warning to the Respondent. Respondent failed to inform NCAT about it and, by not attending the Hearing, coerced the Tribunal to ignore the Applicant's evidence:

SP52948-serious-threats-to-Lot-158-due-to-strata-mismanagement-investigations-Aug2021.pdf

b) Submission to Office of the Hon. Anthony Roberts, Minister for Fair Trading, reporting death threat and serious concerns of misconduct in CTTT files SCS 102/32675 and SCS 12/50460 on 22 March 2013. Respondent failed to inform NCAT about it and, by not attending the Hearing, coerced the Tribunal to ignore the Applicant's evidence:

NSW-Minister-reference-FTMIN13-561-promise-to-investigate-death-threat-and-other-issues-in-CATT-cases-12-50460-and-12-32675-22Mar2013.pdf

No response was received.

100) On 27 October 2021, Mr. LOT 158 made another attempt to reason with Waratah Strata Management and committee members and requested owners corporation response to O'Brien Criminal & Civil Solicitor demands dated 24 April 2020, which owners corporation committed to reply to on 7 May 2020. The email had Subject line:

“REQUEST - SP52948 commitment to respond to Lot 158 demands as per Minutes of meeting on 7May2020”

The email stated:

Over the years, the following FULLY PAID Lot 158 document searches failed to gain access to strata files, in spite of strata laws and regulations:

- 16Nov2011 \$154.00 Document search at BCS Strata Management
- 7Nov2012 \$132.00 Document search at BCS Strata Management
- 28Feb2012 \$72.00 Document search at CTTT
- 7Mar2013 \$33.00 Document search at BCS Strata Management
- 11Mar2013 \$172.80 Document search at BCS Strata Management
- 11Sep2013 \$45.00 Document search at BCS Strata Management
- 15Oct2013 \$45.00 Document search at BCS Strata Management
- 18Oct2013 \$32.00 Document search at BCS Strata Management
- 16Feb2016 \$164.80 Document search at BCS Strata Management
- 16Feb2016 \$3.40 Document search at BCS Strata Management
- 15Jun2017 \$61.05 Document search at Waratah Strata Management
- 13Jun2019 \$212.85 Document search at Waratah Strata Management
- 13Jun2019 \$2.75 Document search at Waratah Strata Management
- 26Sep2019 \$234.30 Document search at Waratah Strata Management
- 29Mar2020 \$2,200.00 O'Brien Criminal & Civil Solicitors demand for strata files sent to Waratah Strata Management
- 27Jul2020 Request to committee members
- 31Jul2021 Request to committee members
- 21Oct2020 Request to Solicitor Adrian Mueller
- 19Jul2021 Request to Solicitor Adrian Mueller

Immediate response now, please.

No reply was received.

101) On 14 November 2021, committee members and Waratah Strata Management were warned that approving minutes of general meetings in 2020 and 2019 effectively voted against previous general meetings and made all engagement by Solicitor Adrian Mueller void and invalid due to standard legal principle of ratification:

The ratification has a retrospective effect, and binds the principal from its date, and not only from the time of the ratification, for the ratification is equivalent to an original authority, according to the maxim, that omnis ratihabitio mandate aequiparatur (ratification is equivalent to express command).

As a general rule, the principal has the right to elect whether he will adopt the unauthorized act or not. But having once ratified the act, upon a full knowledge of all the material circumstances, the ratification cannot be revoked or recalled, and the principal becomes bound as if he had originally authorized the act.

The ratification must be voluntary, deliberate, and intelligent, and the party must know that without it, he would not be bound.

Unredacted evidence in document "20211114-SUMMARY SP52948 validity of nominations for committee with example from AGM 2017-1672.pdf".

Based on the fact that Solicitor Adrian Mueller personally prevented Lot 158 Motions for ratification of various events at AGM 2017, 2018, 2019, and 2020, his engagement and costs become illegal.

Unredacted evidence in document "20210202-NOTIFICATION FOR ALL OWNERS_ SP52948 NCAT case 20_33352 - NCAT asked that Solicitor Adrian Mueller be struck out of the proceedings-35713-2.pdf"

Unredacted evidence in document "SP52948-Motions-by-Lot-158-ratifications-failed-to-approve-past-events-at-AGM-2017.pdf"

Unredacted evidence in document "SP52948-Motions-by-Lot-158-ratifications-failed-to-approve-past-events-at-AGM-2018.pdf"

Unredacted evidence in document "SP52948-Motions-by-Lot-158-ratifications-failed-to-approve-past-events-at-AGM-2019.pdf"

Unredacted evidence in document "SP52948-Motions-by-Lot-158-ratifications-failed-to-approve-past-events-at-AGM-2020.pdf"

102) On 2 February 2022, another attempt by Mr. LOT 158 was made in email to NCAT and committee members.

The email stated:

a) Solicitor Adrian Mueller and SP52948 failed to respond to repeated attempts to deal with alleged costs in NCAT case 20/33352.

The email sent to them on 19 July 2021 has been ignored by them.

b) Another attempt to communicate with SP52948 was on 31 August 2021. No response was received.

c) Third attempt to communicate with SP52948 was on 27 October 2021. No response was received.

d) Solicitor Adrian Mueller and SP52948 have not responded to O'Brien Criminal & Civil Solicitors dated 24 April 2020 (attachment "LOT 158Letter24April.pdf"). It is coming close to two years that the request is outstanding.

In addition to those questions, Lot 158 seeks all correspondence from/to Solicitor Adrian Mueller for the last seven years in regards to his effort to threaten us with alleged defamation cases, which never succeeded but caused significant costs. The defence of qualified privilege cannot be successful if it can be proved by the plaintiff that the defamation was motivated by malice, which can easily be proven.

Recent case confirmed it:

Counsel for the state Alan Sefton argued the messages between Mr McGowan and Mr Quigley should not be disclosed under legal privilege, but Justice Michael Lee said their texts were mainly about political strategy.

"It's not exactly the sort of communication, which one would ordinarily characterise as the provision of legal advice," he said.

The premier and Mr Quigley subsequently discussed Mr Palmer's arbitration over a stalled mining project.

"I just don't think I can reach a level of satisfaction that that communication was made for the dominant purpose of obtaining or providing legal advice," Justice Lee said.

e) In the meantime, since we have absolute proofs that Solicitor Adrian Mueller lied and prevented CTTT/NCAT/District Court/Police/Office of Legal Services Commissioner in their investigations in cases SCS 12/32675, 12/50460, and SC 20/33352 whilst not legally approved to represent owners corporation, we opened case CAS005901 with Office of Legal Services Commissioner and notified to Fair Trading NSW in reference number 10793260.

Stalking, attempts to intimidate, and harassment of Lot 158 continued (more comprehensive details of attempts to intimidate, threat, stalk, harass, expose to ridicule, and discriminate against Lot 158 (including anonymous death threats in 2012 and 2013) with direct knowledge of strata agencies, Solicitor Adrian Mueller, and committee members (in most cases, they refused CCTV access for Police investigations, or claimed the recordings were overwritten) were provided to NCAT and OLSC.

This event will have to be thoroughly investigated, in spite of all attempts to ignore it in the past:

Timeline of events for anonymous death threat in 2013:

- 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
- 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"
- Lot 158 submitted summonses on 25 February 2013 to CTTT, with updated version on 27 February 2013 (CTTT requested the changes to the document)
- 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. Less threatening anonymous phone call also occurred in 2012, which we ignored as prank.
- Threat "urging" Lot 158 to disappear from complex in an anonymous letterbox notice was reported to Police (and ignored by them) in another Event E45617744 on 6 October 2011
- Evidence that Solicitor Adrian Mueller knew about summonses for strata manager Peter Bone and was actively involved on 26 February 2013 exist in Solicitor's invoices
- 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
- 12 Police events for stalking, harassment, intimidation, and threats against Lot 158 by few maintenance staff, few committee members, and some tenants in the complex
- 8 request to obtain access to CCTV recordings for stalking, harassment, intimidation, and threats against Lot 158 were silently ignored by Waratah Strata Management, committee members, and maintenance staff (even Police did not get access to them)

We offer assistance to bring to justice the Respondent and Solicitor Adrian Mueller for repeated efforts to pervert course of justice, abuse court processes, and cause significant costs.

f) CHU Insurance rejected claim for legal costs of Solicitor Adrian Mueller in first quarter of 2021, which was confirmed in agenda for Annual General Meeting in October 2021.

g) Financial status of SP52948 is having serious problems and owners are not notified about it. Some of previous and very recent issues:

- On 4 July 2012, owners corporation had no funds to pay \$14,056.90 which was approved by strata manager Paul Banoob for creditor code 69633, so BCS Strata Management secretly ordered injection of \$50,000.00 from an MBL account (several days later, at alleged committee meeting in Lot 181 unit, who was unfinancial at the time, approved

engagement of Solicitor Adrian Mueller without owners corporation knowledge - that meeting was later found out to be completely illegal and to this day agenda and minutes of the meeting do not exist in strata files).

- *On 1 August 2012, strata manager secretly changed the insurance policy for the complex and then made four claims for “legal costs”:*

\$367.64 on 31 August 2012

\$12,714.65 on 7 December 2012

\$1,320.00 on 26 April 2013

\$10,517.02 on 4 June 2013

The claims were for “legal defence of Lot 3” in CTTT case that did not exist in regards to this owner.

Four years later, in March 2017, CHU Insurance forced owners corporation to repay \$8,800.00.

They should have claimed the full amount, but they did not have all evidence of the case, which we do now.

- *On 21 August 2014 Pica Group (parent company of BCS Strata Management) provided secret cash advance to SP52948 in amount of \$20,745.50 and issued an invoice month later on 22 September 2014. That information was withheld from owners who had no knowledge of financial problems. SP52948 secretly repaid \$20,745.50 six months later on 25 March 2015, without notifying owners corporation. BCS Strata Management failed to include Lot 158 Motion for secret cash advance from Pica Group at AGM 2016*
- *SP52948 Balance Status on 17 October 2019, Admin Fund had negative balance of \$131,852.25 on the day of general meeting. Trying to prevent owners of Lot 158 to raise questions about finance and maintenance, Waratah Strata Management and committee members "approved" \$150,000.00 to be spent on defamation case against Lot 158 (which failed to achieve their goal), without giving owners information that Waratah Strata Management and committee members already engaged Solicitor Adrian Mueller who had prepared 13-page document before the AGM and tried to force Lot 158 into signing preposterous Deed. In financial statements for FY 2020, in spite of extensive legal involvement, Waratah Strata Management logged only \$2,940.00 for legal costs*
- *SP52948 Balance Status on 31 October 2021, Admin Fund had negative balance of \$120,210.65 (one day before next collection of levies on 1 November 2021). This negative balance was extremely opposite from what Waratah Strata Management listed just three days earlier, on the day of general meeting on 28 October 2021 without disclosure to owners, Admin Fund has alleged balance of \$1,019.14 (three days before next collection of levies on 1 November 2021)*
- *SP52948 Balance Status on 29 January 2021, Admin Fund negative balance of \$18,859.76*
- *SP52948 Balance Status on 25 April 2021, Admin Fund negative balance of \$24,560.03*
- *SP52948 Balance Status on 31 July 2021, Admin Fund negative balance of \$22,323.34*
- *SP52948 Balance Status on 8 December 2021, Admin Fund holding just \$1,263.46 (close to two months before next collection of levies is due on 1 February 2022)*
- *SP52948 Balance Status on 24 December 2021, Admin Fund has negative balance of \$49,429.69 (more than one month before next collection of levies is due on 1 February 2022)*
- *SP52948 Balance Status on 7 January 2022, Admin Fund has negative balance of \$53,036.39 (one month before next collection of levies is due on 1 February 2022)*
- *SP52948 Balance Status on 19 January 2022, Admin Fund has negative balance of \$112,530.07 (11 days before next collection of levies is due on 1 February 2022)*
- *SP52948 Balance Status on 30 January 2022, Admin Fund has negative balance of \$116,068.14 (2 days before next collection of levies is due on 1 February 2022)*
- *SP52948 Minutes of committee meeting on 23 September 2021 - shortage of \$1,515,541.00 in Capital Works Fund against the forecast in April 2017 that was allegedly approved without general meeting. Annual general meeting was held on 28 October 2021, and no owner received email or printed copy of rushed updates to Capital Works Fund which simply delayed all major repairs, effectively made balance looked artificially positive. Agenda for AGM 2021 was dispatched on 7 October 2021 and BIV's updated Capital Works Fund plan was created a day earlier but not presented to owners corporation to approve or vote at general meeting on 28 October 2021.*

h) Due to lack of funds, lot of repairs are are delayed, including above mentioned 10-Year Capital Works Fund.

For Lot 158, smoke alarms were suddenly replaced only on 2 October 2021, many years after they had expired and had been deemed faulty in annual fire safety assessments.

At present, repair of water leaks on ceiling near light fitting in Lot 158 is still outstanding, presenting serious fire and OH&S risks.

Attachment "SP52948-extract-from-EC-meeting-ignoring-Lot-158-repeated-complaints-about-fire-safety-and-other-maintenance-29Apr2021.png" shows extract from committee meeting on 29 April 2021 where Lot 158 concerns about safety are ignored.

Attachment "SP52948-waratahstrata.com.au-website-Maintenance-Open-Work-Orders-page-1-30Jan2022.png" taken from Waratah website on 30 January 2022 confirms number of outstanding repairs for more than a year (some even several years old).

i) SP52948 was reminded about costs Lot 158 incurred for document searches where BCS Strata Management and as of 2017 Waratah Strata Management failed to provide access to many documents:

16Nov2011 \$154.00 Document search at BCS Strata Management

7Nov2012 \$132.00 Document search at BCS Strata Management

28Feb2012 \$72.00 Document search at CTTT

7Mar2013 \$33.00 Document search at BCS Strata Management

11Mar2013 \$172.80 Document search at BCS Strata Management

11Sep2013 \$45.00 Document search at BCS Strata Management

15Oct2013 \$45.00 Document search at BCS Strata Management

18Oct2013 \$32.00 Document search at BCS Strata Management

16Feb2016 \$164.80 Document search at BCS Strata Management

16Feb2016 \$3.40 Document search at BCS Strata Management

15Jun2017 \$61.05 Document search at Waratah Strata Management

13Jun2019 \$212.85 Document search at Waratah Strata Management

13Jun2019 \$2.75 Document search at Waratah Strata Management

26Sep2019 \$234.30 Document search at Waratah Strata Management

29Mar2020 \$2,200.00 O'Brien Criminal & Civil Solicitors demand for strata files sent to Waratah Strata Management

27Jul2020 Request to committee members

31Jul2021 Request to committee members

21Oct2020 Request to Solicitor Adrian Mueller

19Jul2021 Request to Solicitor Adrian Mueller

27Oct2021 Request to committee members and Waratah Strata Management

103) First reply to Lot 158 was threat by Solicitor Adrian Mueller dated 7 February 2022, still without any evidence of signed Standard Costs Agreement or evidence of his work. In it, Solicitor Adrian Mueller submitted legal costs in amount of \$25,158.14.

Narrative 3 (Investigators and owners not informed about troubles with common funds)

104) On 21 August 2014 Pica Group (parent company of BCS Strata Management) provided secret cash advance to SP52948 in amount of \$20,745.50 and issued an invoice month later on 22 September 2014. That information was withheld from owners who had no knowledge of financial problems. SP52948 secretly repaid \$20,745.50 six months later on 25 March 2015, without notifying owners corporation. BCS Strata Management failed to include Lot 158 Motion for secret cash advance from Pica Group at AGM 2016.

105) SP52948 Balance Status on 17 October 2019, Admin Fund had negative balance of \$131,852.25 on the day of general meeting. Trying to prevent owners of Lot 158 to raise questions about finance and maintenance, Waratah Strata Management and committee members "approved" \$150,000.00 to be spent on defamation case against Lot 158 (which failed to achieve their goal), without giving owners information that Waratah Strata Management and committee members already engaged Solicitor Adrian Mueller who had prepared 13-page document before the AGM and tried to force Lot 158 into signing preposterous Deed. In financial statements for FY 2020, in spite of extensive legal involvement, Waratah Strata Management logged only \$2,940.00 for legal costs.

106) SP52948 Balance Status on 31 October 2021, Admin Fund had negative balance of \$120,210.65 (one day before next collection of levies on 1 November 2021). This negative balance was extremely opposite from what Waratah Strata Management listed just three days earlier, on the day of general meeting on 28 October 2021 without disclosure to owners, Admin Fund has alleged balance of \$1,019.14 (three days before next collection of levies on 1 November 2021).

107) SP52948 Balance Status on 29 January 2021, Admin Fund negative balance of \$18,859.76.

108) Due to vigilant actions by Mr. LOT 158, owners corporation SP52948 was prevented to make insurance claims for alleged legal costs for Solicitor Adrian Mueller.

Minutes of committee meeting on 4 February 2021, stated the following:

3 MATTERS ARISING FROM PREVIOUS MEETING

Resolved the following matters arising from the previous meeting were tabled and discussed:

- NCAT Application lodged by Lot 158 - JS Mueller & Co have prepared and lodged the Owners Corporation response to the NCAT Application lodged by the owners of Lot 158. An NCAT Hearing is taking place on 11 February and will be attended by Adrian Mueller on behalf of the Owners Corporation. A Legal Defence insurance claim has been lodged on behalf of the Owners Corporation, with a decision on that claim still to be made by the insurance company.
- Creation of a Smoking Area - Following investigation by members of the strata committee and Steve Carbone no suitable alternative location could be found for a smoking area, so the current area of the pergola near the tennis courts is to remain as the permitted smoking area.
- Charges for additional gas outlet - A document prepared by John Gore on the current costs for gas

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Minutes Page 1 of 2

usage charges for those units with a second gas outlet was tabled and discussed. A charge of \$270 including GST per annum was agreed for the period 1/9/21 - 31/8/22 and until further notice. A letter is to be sent to those owners with a second gas outlet to advise them of this change.

Unredacted evidence in document "SP52948-minutes-EC-meeting-4Feb2021.pdf"

109) SUU Insurance company rejected claim by the owners corporation (later found that it was for Lot 190 window frame blown by strong wind and insurance company rejected the claim due to proven failures to maintain common property):

Strata Plan 52948		Macquarie Gardens, 1-15 Fontenoy Road, Macquarie Park NSW 2113	
Details of Policies held			
Renewal Date	Policy Number	Insurer	Premium Paid
21/09/2020	QUSS042715	QUS Pty Ltd	
Building	16/09/2019	Inactive	87,162.33
Details of Claims processed			
Claim Date	Amount Claimed	Claim Status	Amount Received
09/02/2021	13,497.00	Refused	0.00
Building			

110) Solicitor Adrian Mueller was well aware of rejected insurance claim, as per his own invoice related to NCAT communications listed in Solicitor's invoice 103514 dated 6 May 2021 (document "Solicitor-Adrian-Mueller-extract-from-invoice-102134.png").

Solicitor Adrian Mueller failed to inform NCAT about it at Hearing on 11 February 2021.

Unredacted evidence in document "SP52948-agenda-for-AGM-2021-7Oct2021.pdf".

111) SP52948 Balance Status on 25 April 2021, Admin Fund negative balance of \$24,560.03.

112) SP52948 Balance Status on 31 July 2021, Admin Fund negative balance of \$22,323.34.

113) SP52948 Balance Status on 8 December 2021, Admin Fund holding just \$1,263.46 (close to two months before next collection of levies is due on 1 February 2022).

114) SP52948 Balance Status on 24 December 2021, Admin Fund has negative balance of \$49,429.69 (more than one month before next collection of levies is due on 1 February 2022).

115) SP52948 Balance Status on 7 January 2022, Admin Fund has negative balance of \$53,036.39 (one month before next collection of levies is due on 1 February 2022).

116) SP52948 Balance Status on 19 January 2022, Admin Fund has negative balance of \$112,530.07 (11 days before next collection of levies is due on 1 February 2022).

117) SP52948 Balance Status on 30 January 2022, Admin Fund has negative balance of \$116,068.14 (2 days before next collection of levies is due on 1 February 2022).

SP52948 Balance Status on 27 February 2022, Admin Fund has balance of only \$21,931.68 (27 days after collection of levies due on 1 February 2022) .

118) SP52948 Minutes of committee meeting on 23 September 2021 - shortage of \$1,515,541.00 in Capital Works Fund against the forecast in April 2017 that was allegedly approved without general meeting. Annual general meeting was held on 28 October 2021, and no owner received email or printed copy of rushed updates to Capital Works Fund which simply delayed all major repairs, effectively made balance looked artificially positive. Agenda for AGM 2021 was dispatched on 7 October 2021 and BIV's updated Capital Works Fund plan was created a day earlier but not presented to owners corporation to approve or vote at general meeting on 28 October 2021.

Narrative 4 - Legal expenses in generic financial documents - not disclosed to owners by committee members and Waratah Strata Management, keeping owners completely uninformed

119) Without giving owners information that Waratah Strata Management and committee members already engaged Solicitor Adrian Mueller who had prepared 13-page document before the AGM and tried to force Lot 158 into signing preposterous Deed. In financial statements for FY 2020, in spite of extensive legal involvement by Solicitor Adrian Mueller and undisclosed barrister, Waratah Strata Management logged only \$2,940.00 for legal costs.

In extract from Income & Expenditure Report for the financial year-to-date 01/09/2019 to 31/08/2020 (end of financial year), the following total amount for legal and debt collection fees were recorded:

\$2,940.00

120) In extract from Income & Expenditure Report for the financial year-to-date 01/09/2020 to 25/10/2020, the following total amount for legal and debt collection fees were recorded:

\$2,475.00

121) In extract from Income & Expenditure Report for the financial year-to-date 01/09/2020 to 18/11/2020, the following total amount for legal and debt collection fees were recorded:

\$4,232.25

122) In extract from Income & Expenditure Report for the financial year-to-date 01/09/2020 to 18/12/2020, the following total amount for legal and debt collection fees were recorded:

\$12,012.25

123) In extract from Income & Expenditure Report for the financial year-to-date 01/09/2020 to 26/02/2021, the following total amount for legal and debt collection fees were recorded:

\$14,952.90

124) In extract from Income & Expenditure Report for the financial year-to-date 01/09/2020 to 31/07/2021, the following total amount for legal and debt collection fees were recorded:

\$25,482.08

125) In extract from Income & Expenditure Report for the financial year-to-date 01/09/2020 to 27/08/2021, the following total amount for legal and debt collection fees were recorded:

\$25,582.08

126) In extract from Income & Expenditure Report for the financial year-to-date 01/09/2020 to 31/08/2021 (end of financial year), the following total amount for legal and debt collection fees were recorded:

\$25,612.08

127) In extract from Income & Expenditure Report for the financial year-to-date 01/09/2021 to 31/10/2021, the following total amount for legal and debt collection fees were recorded:

\$555.00

128) In extract from Income & Expenditure Report for the financial year-to-date 01/09/2021 to 15/09/2021, the following total amount for legal and debt collection fees were recorded:

\$(230.00)

129) In extract from Income & Expenditure Report for the financial year-to-date 01/09/2021 to 2/10/2021, the following total amount for legal and debt collection fees were recorded:

\$(230.00)

130) In extract from Income & Expenditure Report for the financial year-to-date 01/09/2021 to 5/11/2021, the following total amount for legal and debt collection fees were recorded:

\$680.00

131) In extract from Income & Expenditure Report for the financial year-to-date 01/09/2021 to 28/11/2021, the following total amount for legal and debt collection fees were recorded:

\$630.00

132) In extract from Income & Expenditure Report for the financial year-to-date 01/09/2021 to 31/12/2021, the following total amount for legal and debt collection fees were recorded:

\$305.00

133) In extract from Income & Expenditure Report for the financial year-to-date 01/09/2021 to 19/01/2022, the following total amount for legal and debt collection fees were recorded:

\$580.00

134) In extract from Income & Expenditure Report for the financial year-to-date 01/09/2021 to 30/01/2022 (period of full five months), the following total amount for legal and debt collection fees were recorded:

\$580.00

In extract from Income & Expenditure Report for the financial year-to-date 01/09/2021 to 27/02/2022 (period of full six months), the following total amount for legal and debt collection fees were recorded:

\$630.00

135) Extract from minutes of committee meeting dated 23 September 2021 show that Solicitor Adrian Mueller was allegedly working on costs assessment but did not communicate with Lot 158 whilst earning steady income from owners corporation:

Resolved that the following matters arising from the previous meeting were discussed:

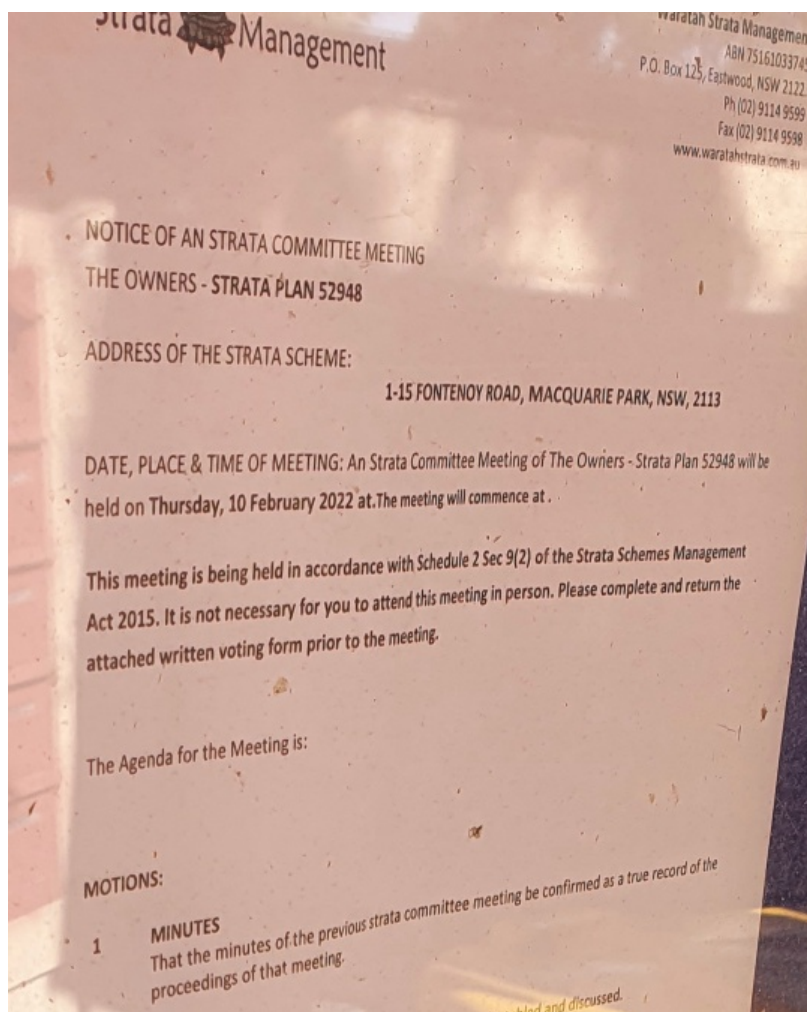
- NCAT Application by Lot 158 - An email from JS Mueller's dated 22/9/21 advising the current status of the costs assessment claim was tabled and discussed.
- COVID-19 restrictions on use of common facilities - No changes to the current arrangements are to be made at this time.
- Council Fire Order - An email from Core Fire dated 16/9/21 advising the current status of the project was tabled and discussed.
- Ryde Council regarding driveway damage - Steve Carbone has advised that Council have agreed to pay for the repairs however the work has not been carried out as yet.

This suggests:

- There were no legal expenses of significant nature for five months in FY 2022 (period from 1 September 2021 to 31 August 2022), or
- Legal expenses were hidden and undisclosed to owners.

Narrative 5 - Non-compliant committee meetings dated 10 February 2022 and 3 March 2022 – without disclosure of alleged legal costs for Solicitor Adrian Mueller in period from July 2021 onward

136) Notice of paper committee meeting, without designated venue was published on notice boards as late as 13:30 hours on 8 February 2022, and scheduled for 10 February 2022, without venue and time. Photo taken of notice board near letterboxes:



WARATAH
Strata Management

Waratah Strata Management
ABN 75161033745
P.O. Box 125, Eastwood, NSW 2122.
Ph (02) 9114 9599
Fax (02) 9114 9598
www.waratahstrata.com.au

**NOTICE OF AN STRATA COMMITTEE MEETING
THE OWNERS - STRATA PLAN 52948**

ADDRESS OF THE STRATA SCHEME:

1-15 FONTENOY ROAD, MACQUARIE PARK, NSW, 2113

DATE, PLACE & TIME OF MEETING: An Strata Committee Meeting of The Owners - Strata Plan 52948 will be held on Thursday, 10 February 2022 at. The meeting will commence at .

This meeting is being held in accordance with Schedule 2 Sec 9(2) of the Strata Schemes Management Act 2015. It is not necessary for you to attend this meeting in person. Please complete and return the attached written voting form prior to the meeting.

137) Lot 158 did not receive notice of this meeting, which, as requested three years ago, must come via post.

138) This notice, as all other notices sent by Waratah Strata Management since 2018 failed to satisfy SSMA 2015, Schedule 2, Part 2, 4(1) and Schedule 1.18 of the Justice Legislation Amendment Bill (No 3) 2018 (NSW) that amended section 76 (1) (b) of the Interpretation Act 1987 (NSW).

Unredacted evidence in document "SP52948-letterbox-area-notice-board-with-committee-meeting-agenda-published-around-1330-hours-photo-2-8Feb2022.png".

139) Notice did not contain detailed agenda for any Motions on notice board:

- Minutes of last meeting.
- Financial report.
- Gigacomm proposal (all correspondence missing for owners).
- Core Engineering fire proposal (all correspondence missing).
- Electric vehicle charging station.
- General business (no information of any kind what items were to be voted or discussed).

140) As of 27 February 2022 (Lot 158 have full photo evidence for each day in February 2022), notice boards did not publish minutes of meeting dated 10 February 2022, including Solicitor Adrian Mueller's re-engagement for costs recovery.

141) Another committee meeting is scheduled for 3 March 2022 and as of 27 February 2022, notice boards have not published information about it.

142) Lot 158 did not receive copy of it, which, as requested three years ago, must come via post..

Extract from the notice of the meeting as provided by a concerned owner:

**NOTICE OF A STRATA COMMITTEE MEETING
THE OWNERS - STRATA PLAN 52948**

ADDRESS OF THE STRATA SCHEME:

Macquarie Gardens, 1-15 Fontenoy Road, Macquarie Park NSW 2113

DATE, PLACE & TIME OF MEETING: A meeting of the Strata Committee of The Owners - Strata Plan 52948 will be held on 3/03/2022 via Zoom video conference. The meeting will commence at 05:00 PM.

Join Zoom Meeting

<https://us06web.zoom.us/j/86031139357?pwd=NGR6bHFPWGpkY3VyUGU5dWpPOTdoZz09>

Meeting ID: 860 3113 9357

Passcode: 048746

One tap mobile

+61280156011,,86031139357# Australia

Dial by your location

+61 2 8015 6011 Australia

Meeting ID: 860 3113 9357

Find your local number: <https://us06web.zoom.us/u/kdiak7uK1x>

143) Waratah Strata Management, on their website, provided the following update in the minutes dated 10 February 2022 (which most of owners would not see because they do not log into website). The minutes do not mention Solicitor Adrian Mueller's current updates, or current financial status:

6 GENERAL BUSINESS

The following general business items were discussed:

- ENERGY CONTRACTS: Energy contracts will be placed out for tender to source any services offered at more competitive rates.
- Lot 162: Lot 162 has requested a copy of the caretakers contract, the strata manager will provide the owner with this document.
- LOT 158: It was discussed that lot 158 has communicated with members of the strata committee. The correspondence has been ignored by all receiving members as per Special By-Law 11 - Unreasonable Communications.
- RENOVATION LOT 168: The application for renovation provided by lot 168 has been approved.

Narrative 6 – Lot 158 updated letters of demand in February 2022

144) In February 2022, Mr. LOT 158 sent polite but firm letters of demand to the following recipients, asking for them to be reasonable and avoid legal costs by simply offering evidence or refuting Mr. LOT 158's claims, and assisting enforcement agencies in investigations of Solicitor Adrian Mueller:

- Letter of demand to Pica Group managers (parent company of BCS Strata Management) on 11 February 2022
- Letter of demand to Mr. Stan Pogorelsky (ex-EC Chairperson and current EC member, who is alleged to be unfinancial due to unpaid full levies since 1999) on 10 February 2022
- Letter of demand to Mr. Moses Levitt (current EC member, who is alleged to be unfinancial due to unpaid full levies since 2001) on 10 February 2022
- Letter of demand to Mr. Jeffery Wang (current EC member) on 10 February 2022
- Letter of demand to Mrs. Maureen McDonald (long-term ex-EC member) on 12 February 2022
- Letter of demand to Mr. Robert Crosbie at Waratah Strata Management on 13 February 2022
- Letter of demand to Mr. Upali Aranwela (long-term ex-EC Treasurer, who is alleged to be unfinancial due to unpaid full levies since 1999) on 10 February 2022
- Letter of demand to Mrs. Lorna Zelenzuk (ex-EC Chairperson and EC member, who is alleged to be unfinancial due to unpaid full levies since 1999) on 10 February 2022
- Letter of demand to Mr. John Gore (current EC member) on 10 February 2022
- Letter of demand to Mr. John Ward (ex-EC Treasurer and EC member) on 12 February 2022
- Letter of demand to Mr. Bruce Copland (ex-EC Chairperson) on 10 February 2022

No reply was received from any of them.

Narrative 7 – Mrs. LOT 158 costs for unsuccessful strata document searches – 2011 to 2020

145) Owners corporation and Solicitor Adrian Mueller were made aware of expenses in amount of \$3,564.95 Mrs. LOT 158 paid on behalf of her husband for strata document searches, where access to many files was denied:

- 16Nov2011 \$154.00 Document search at BCS Strata Management.
- 7Nov2012 \$132.00 Document search at BCS Strata Management.
- 28Feb2012 \$72.00 Document search at CTTT.
- 7Mar2013 \$33.00 Document search at BCS Strata Management.
- 11Mar2013 \$172.80 Document search at BCS Strata Management.
- 11Sep2013 \$45.00 Document search at BCS Strata Management.
- 15Oct2013 \$45.00 Document search at BCS Strata Management.
- 18Oct2013 \$32.00 Document search at BCS Strata Management.
- 16Feb2016 \$164.80 Document search at BCS Strata Management.
- 16Feb2016 \$3.40 Document search at BCS Strata Management.
- 15Jun2017 \$61.05 Document search at Waratah Strata Management.
- 13Jun2019 \$212.85 Document search at Waratah Strata Management.
- 13Jun2019 \$2.75 Document search at Waratah Strata Management.
- 26Sep2019 \$234.30 Document search at Waratah Strata Management.
- 29Mar2020 \$2,200.00 O'Brien Criminal & Civil Solicitors demand for strata files sent to Waratah Strata Management.

Narrative 8 - Solicitor Adrian Mueller's premeditated plan how to successfully prevent Lot 158 Motions from being considered by 218 owners at general meeting in 2017

146) Unredacted evidence in document "SP52948-premeditated-plan-by-Solicitor-Adrian-Mueller-to-prevent-Applicant-Motions-and-disallow-owners-to-vote-at-AGM-2017.pdf" contain brief details of secret events orchestrated by Solicitor Adrian Mueller:

- Solicitor Adrian Mueller charging SP52948 for alleged full review of Lot 158 folder in NCAT case SC 20/33352, which includes his direct involvement in preventing Lot 158 Motions and Police investigations at AGM 2017.
- Advice by Solicitor Adrian Mueller in secret email to Waratah Strata Management on 23 August 2017 how to prevent Lot 158 Motions for Annual General Meeting in October 2017.
- Template of letter Solicitor Adrian Mueller prepared on 23 August 2017 for Waratah Strata Management with instructions to send it to Lot 158 as close to Annual General Meeting 2017 so that there would be no time to update agenda for the meeting.
- Extract from Waratah Strata Management minutes of committee meeting on 18 September 2017, with false statement to owners that Lot 158 Motions were being considered for agenda for Annual General Meeting.
- Letter sent by Waratah Strata Management to Lot 158 on 10 October 2017 (only 16 days before the Annual General Meeting), rejecting to put any Motions for owners to consider and vote.
- Some of the Lot 158 Motions excluded from agenda for Annual General Meeting 2017.

Narrative 9 - Solicitor Adrian Mueller involvement in using his Special By-Law Unreasonable Communications to prevent Lot 158 from raising concerns and complaints

147) Unredacted evidence in document “SP52948-used-Unreasonable-Communications-Special-By-Law-against-Lot-158-six-times-without-disclosure-to-NCAT-SC-20-33352.pdf” contain brief details of events orchestrated by Solicitor Adrian Mueller. Explicit usage of “Unreasonable Communications” Special By-Law:

- 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.
- Motion 4 at committee meeting on 2 May 2019.
- 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.
- Motion 4 at committee meeting on 20 June 2019.
- Motion 3 at committee meeting on 29 April 2021, with further false statements and threats against Lot 158.
- Motion 6 at committee meeting on 10 February 2022 (notice of meeting not sent to all owners and minutes not published on notice board).

Narrative 10 - Solicitor Adrian Mueller's premeditated plan how to successfully prevent Lot 158 Motions from being considered by 218 owners at general meeting in 2018

148) Unredacted evidence in document "Solicitor-Adrian-Mueller-prevented-Lot-158-Motions-and-disallowed-owners-to-vote-AGM-2018.pdf" contain brief details of secret events orchestrated by Solicitor Adrian Mueller.

Narrative 11 - Solicitor Adrian Mueller's premeditated plan to create legal precedence by not allowing Respondent to attend Hearing in CTTT case SCS 12/32675 and NCAT case SC 20/33352

149) Solicitor Adrian Mueller used the same principle of not allowing Respondent to be present at Hearings in two cases CTTT SCS 12/32675 and NCAT SC 20/33352 and influenced the Tribunal to dismiss orders against the Respondent due to their "non-attendance" and alleged inability to defend themselves.

- In the first case SCS 12/32675, Solicitor Adrian Mueller lied to CTTT, as per unredacted evidence in document "faxcoversheet-SCS-12-32675-False-Statement-for-Order-4-Hearing-19Oct2012.doc":

Before the Hearing, Your Honor clearly warned about importance of presenting the FACTS and legal obligations in that regard.

At the Hearing for SCS 12/32675 on 17th of October 2012, the Solicitor Mr. Mueller, on behalf of Respondents, wrongly 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 (I believe he made a claim of them being overseas on holidays - the audio recording can confirm it). As a reminder, my Order 4 was:

To invalidate Special By-Law 4 (Exclusive Rights to Common Property by Owners of Lot 3) pursuant to section 159 of the Act due to invalid count and record of proxy votes and refusal to disclose public liability insurance by the owners of Lot 3 over many years.

I would be satisfied to revoke order to invalidate Special By-Law 4 if the owners of Lot 3 indemnify, and keep indemnified, the Owners Corporation in respect of all claims, action, costs, and expenses whether for injury to persons, or damage to property, arising in any way out of carrying out the works and future maintenance and the owner shall at all times keep in effect a public risk insurance policy in the sum of not less than \$5,000,000 to cover the owners obligations hereunder (as per registered By-Law, or enforced pursuant section 147 of the Act).

This Solicitor's statement had a grave consequence that we were forced to agree not to proceed with it due to owners' absence.

As a matter of fact, my request to obtain access to the public insurance details had been outstanding for the last five months and the notice about the Hearing was released by the CTTT as early as 5th of September 2012. The Respondents had a duty to prepare their evidence, or reasons for adjournment on this matter but failed to do so.

By pure coincidence, the Annual General Meeting (AGM) of SP52948 was held on the same day as our Hearing (just three hours later). To my surprise, one of the owners of Lot 3 (for whom the Special By-Law 4 applies) was PRESENT at the meeting and he claimed two things:

- That nobody told him about the Hearing;
- That his wife provided insurance details to the managing agent.

There are more than 40 witnesses to confirm it, including the managing agent himself and all nine members of the executive committee.

Based on that statement, I sent an email to the Solicitor Mr. Mueller (on 18th of October) and the Managing Agent (on 17th of October) to provide me with the insurance details by this morning (Friday, 19th of October). I would have been happy with any reply but got nothing at all. I very clearly stated that I need a response by today so that I can either leave it as is, or contact the CTTT.

Hence, I would like that CTTT acknowledges and investigate implications of the fact that the Order 4 at the Hearing was cancelled due to invalid statement by the Solicitor on behalf of the Respondents.

- In the second case SC 20/33352, it appears that Solicitor Adrian Mueller secretly notified NCAT that committee members and strata manager would not attend the Hearing, without sharing that information with Lot 158.

In their decision in case SC 20/33352 on 23 April 2021, Tribunal stated, without any evidence being submitted by Solicitor Adrian Mueller that was shared with Lot 158, or witnessed by Lot 158 in any form:

- 13 Mr Mueller submitted that a resolution appointing his firm as legal representatives for the owners corporation in the proceedings had occurred on 22 October 2020; and that there had been compliance with s 101 of the SSMA and the SM Regulations. Mr Mueller rejected the allegations of unethical or improper behaviour by himself; the strata committee members; and/or the strata manager.
- 14 Mr Mueller further submitted that if leave was rescinded at the hearing it would prejudice the ability of the owners corporation to present its case, as the strata manager and strata committee members had not prepared on the basis that they may have to present the case for the owners corporation at the hearing.
- 15 The submissions of [redacted] involving the purported conduct of Mr Mueller were without any substance, and considering the duty of legal practitioners under s 36 (3) of the *Civil and Administrative Tribunal Act 2015* (NSW) ('the NCAT Act') the Tribunal accepted the submission of Mr Mueller regarding appointment by the owners corporation at the general meeting on 22 October 2020.
- 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.

Unredacted evidence in document "20-33352 Sarginson Reserved.pdf".

Narrative 12 - Solicitor Adrian Mueller's premeditated secret plan how to recover legal costs from Lot 158 in CTTT case SCS 12/32675 on 8 November 2013

150) Solicitor Adrian Mueller, in spite of knowing that his representation in case SCS 12/32675 was based on falsified documents and statements, secretly submitted the following letter and emails to two BCS Strata Management staff (Mr. Peter Bone and Mr. Paul Banoob) on 8 November 2013:

On 6 November 2013 Deputy Chairperson Harrowell ordered [redacted] 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;
- [redacted] 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 [redacted] beyond that point was misconceived or lacking in substance and justified the Tribunal making an order for [redacted] to pay the owners corporation's costs;

Unredacted evidence in document "SP52948-A-Mueller-notice-about8800-dollars-penalty-8Nov2013-BCS6518374.pdf".

151) In the same letter and email, Solicitor Adrian Mueller gave options for enforcing costs recover, including fast bankruptcy:

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 Mr Baljevic's 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

Narrative 13 – Example of Solicitor Adrian Mueller’s invoice in amount of \$6,980.28 (GST inclusive) without itemised references or evidence of signed Standard Costs Agreement

152) Here is how Solicitor Adrian Mueller without itemised invoice secretly charged owners corporation SP52948 on 14 February 2014:

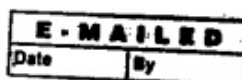


JEFFREY STEVEN MUELLER, B.Com. LL.B.
BRUCE WILLIAM BENTLEY, B.A. LL.B. LL.M.

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T: 02 9562 1266
F: 02 9567 8551
www.muellers.com.au

The Secretary
The Owners - Strata Plan No. 52948
c/- Raine & Horne Strata Sydney
DX 11609
SYDNEY DOWNTOWN

Date: 18 February 2014
Reference: 24636
Invoice #: 65483
Solicitor: AM



Memorandum of Fees – Tax Invoice
ABN 44 031 127 339

RE: CTTT Appeal by (File No. SCS13/50737)

PROFESSIONAL COSTS

Description	Total
To our costs of acting for owners corporation in appeal by [redacted] to Consumer, Trader & Tenancy Tribunal against orders of Strata Schemes Adjudicator Levingston including perusing [redacted] application and submissions to the Adjudicator, the executive committee's submission to the Adjudicator, the Adjudicator's orders and reasons for decision, [redacted] notice of appeal, evidence and submissions served by [redacted] in the appeal and draft submission in the appeal prepared by executive committee, preparing evidence and submissions in appeal on behalf of owners corporation, attending to settlement of appeal by lodging consent orders and reporting to you	\$6,204.00

DISBURSEMENTS

Description	Amount	GST
Courier Fees	\$101.48	\$10.15
NSW LPI: Title Search - cp/sp52948	\$13.41	\$1.34
NSW LPI: Document Image - Strata Plan 52948	\$13.41	\$1.34
NSW LPI: Document Image - Strata Plan 53855	\$13.41	\$1.34

Unredacted evidence in document "BCS7278434-JS-Mueller-invoice-18Feb2014.pdf".



Narrative 14 – Solicitor Adrian Mueller’s Standard Costs Agreement in District Court case 2013/360456 approved costs in amount of \$16,500.00 (GST inclusive) whilst Solicitor Adrian Mueller charged \$20,866.75 (GST inclusive) without owners corporation approval or knowledge (similar problem happened in CTTT case SCS 12/32675: alleged Standard Costs Agreement for Solicitor Adrian Mueller approved \$11,550.00 (GST inclusive) whilst Solicitor charged \$28,511.24 (GST inclusive) without owners corporation approval or knowledge)

153) Extract from alleged Standard Costs Agreement:

Standard Costs Agreement

DATE:	4 December 2013
TO:	The Owners – Strata Plan No. 52948
ADDRESS:	c/- Raine & Horne Strata Sydney, DX11609 SYDNEY DOWNTOWN
FROM:	J S Mueller & Co. Solicitors
ADDRESS:	First Floor, 240 Princes Highway, Arncliffe NSW 2205
MATTER:	_____ -v- Owners Corporation 52948 District Court Case No. 2013/360456

- A. This document is an offer to enter into a costs agreement with you.
- B. The work we have been instructed to do is act for and represent you in the appeal by _____ in the District Court of NSW case no. 2013/360456 against the decision of the Consumer, Trader and Tenancy Tribunal including the decision made on 6 November 2013 in file no. SCS12/32675 including perusing and providing you with advice concerning the summons commencing an appeal and the notice of motion filed in the appeal by _____ attending all mentions, call-overs and directions hearings in the appeal, engaging in any necessary interlocutory steps in the appeal including, if instructed to do so, filing a notice of motion to have the appeal summarily dismissed or struck out, perusing any evidence and submissions in support of the appeal served by _____ preparing any necessary evidence and submission to defend the appeal on your behalf, preparing for and attending the final hearing of the appeal, reporting to you on the outcome of the final hearing, engaging in all necessary correspondence with you and _____ and any other parties and taking all necessary instructions from you.

Signed: 	<u>9 January 2014</u>
Client	Date
	<u>4 December 2013</u>
Solicitor	Date

We estimate the cost of the work to be:

Professional fees:	\$14,950.00
Charges:	\$25.00
Expenses & Disbursements subject to GST:	\$25.00
SUBTOTAL:	\$15,000.00
GST:	\$1,500.00
TOTAL (GST inclusive):	\$16,500.00

Extract from Cash Book Payments by Account Code for period 1 September 2013 to 31 August 2014 (figures are GST exclusive):

265	Legal&Debt Fees	21/10/2013	00990790	GRACE LAWYERS	347.00		LEGAL FEES RE BIGAIR
	Legal&Debt Fees	25/10/2013	00990801	MANAGING AGENT	250.00	347.00	Levy Recovery Stage 3
	Legal&Debt Fees	19/11/2013	00990829	J S MUELLER & CO SOLICITORS	440.00	250.00	LEGAL FEES
	Legal&Debt Fees	16/12/2013	00990863	GRACE LAWYERS	880.00	440.00	LEGAL FEES RE WHOME
	Legal&Debt Fees	6/01/2014	00990882	GRACE LAWYERS	1,011.00	880.00	LEGAL FEES
	Legal&Debt Fees	29/01/2014	00990916	GRACE LAWYERS	287.50	1,011.00	LEGAL FEES
	Legal&Debt Fees	20/02/2014	00001047	JOURNAL ENTRY	-10,000.00	287.50	Refund chq received frm L158
	Legal&Debt Fees	21/02/2014	00990938	MANAGING AGENT	50.00	-10,000.00	Levy Recovery Stage 3
	Legal&Debt Fees	4/03/2014	00990946	J S MUELLER & CO SOLICITORS	6,345.71	50.00	PROFESSIONAL COSTS
	Legal&Debt Fees	5/03/2014	00990951	J S MUELLER & CO SOLICITORS	18,749.77	6,345.71	PROFESSIONAL COSTS
	Legal&Debt Fees	7/03/2014	00001052	JOURNAL ENTRY	-16,500.00	18,749.77	Refund legal costs from l158
	Legal&Debt Fees	25/03/2014	00990981	J S MUELLER & CO SOLICITORS	220.00	-16,500.00	LEGAL FEES
	Legal&Debt Fees	28/03/2014	00990985	MANAGING AGENT	50.00	220.00	Levy Recovery Stage 3
						50.00	

SW
Printed 16/09/2014 9:27:39AM

RAINE & HORNE STRATA SYDNEY

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CASH BOOK PAYMENTS BY ACCOUNT CODE FOR 1-15 FONTENOY ROAD

REPORTING PERIOD 1/09/2013 TO 31/08/2014

count	A/C Description	Date	CHK/JNL	Payee	Amount	Total	Expense Description
	Legal&Debt Fees	1/04/2014	00990992	GRACE LAWYERS	1,090.00		LEGAL FEES
	Legal&Debt Fees	23/04/2014	00991014	GRACE LAWYERS	177.50	1,090.00	REVIEW/FINALISE DRAFT LETTER
	Legal&Debt Fees	24/04/2014	00991017	MANAGING AGENT	250.00	177.50	Levy Recovery Stage 3
	Legal&Debt Fees	27/06/2014	00991062	MANAGING AGENT	50.00	250.00	Levy Recovery Stage 3
	Legal&Debt Fees	16/07/2014	00991079	KEMPS PETERSONS (NSW) PTY LTD	150.00	50.00	LEGAL FEES - LOT 169
	Legal&Debt Fees	25/07/2014	00991089	MANAGING AGENT	150.00	150.00	Levy Recovery Stage 3
					50.00		Briefing Management
	Legal&Debt Fees	31/07/2014	00991100	J S MUELLER & CO SOLICITORS	440.00	200.00	ADVICE ON SCTN 108 INSPECT RPT

Similar problem happened in CTTT case SCS 12/32675: alleged Standard Costs Agreement for Solicitor Adrian Mueller approved \$11,550.00 (GST inclusive) whilst Solicitor charged \$28,511.24 (GST inclusive) without owners corporation approval or knowledge.

Unredacted evidence in document "SP52948-Solicitor-Adrian-Mueller-signed-Standard-Costs-Agreement-for-District-Court-in-amount-of-16500-dollars-9Jan2014.pdf".

Unredacted evidence in document "BCS7459729-JS-Mueller-invoice-6Mar2014.pdf".

Unredacted evidence at https://hub.communitye.com.au/wps/PA_ExtraStrata/inview?docid=7271137

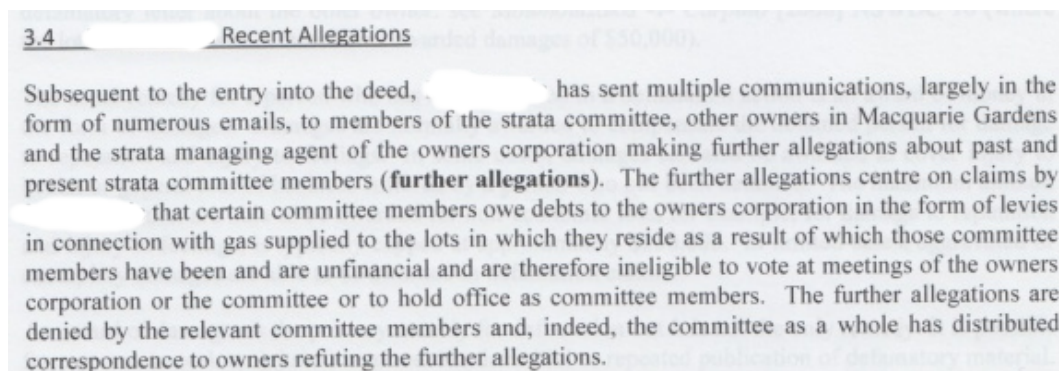
Narrative 15 – Solicitor Adrian Mueller fully aware of Mr. LOT 158 being legal member of committee since AGM 2012

154) At Annual General Meeting on 17 October 2012, which failed to comply with strata regulations where strata manager and committee members did not allow owners information about it, Mr. LOT 158 had 14 votes for election on the committee, whilst out of nine other candidates two were UNFINANCIAL to vote or be elected on the committee due to unpaid levies: Mr. Stan Pogorelsky and Mr. Moses Levitt.

Mr. LOT 158 also held three proxy authorisations for period of 12 months, which meant that in period from 17 October 2012 to next general meeting on 23 October 2013, Mr. LOT 158 was legal representative of owners corporation.

Solicitor Adrian Mueller is fully aware of these irrefutable facts, based on evidence of unfinancial owners who did not pay prescribed levies for gas connections (including 10% simple interest in each year) or did not declare having such connection:

- FY 2013, two unfinancial members on the committee: Mr. Moses Levitt, Mr. Stan Pogorelsky (total number of candidates: 10, selected 9, two not valid, hence Mr. LOT 158 should have been automatically elected on 17 October 2012).
- FY 2015, two unfinancial members on the committee: Mr. Moses Levitt, Mr. Stan Pogorelsky (total number of candidates: 10, selected 9, two not valid, hence Mr. LOT 158 should have been automatically elected on 26 November 2014).
- FY 2018, three unfinancial members on the committee: Mrs. Marianna Paltikian, Mr. Moses Levitt, Mr. Stan Pogorelsky (total number of candidates: 11, selected 9, three not valid, hence Mr. LOT 158 should have been automatically elected on 18 October 2017).
- FY 2019, three unfinancial members on the committee: Mrs. Marianna Paltikian, Mr. Moses Levitt, Mr. Stan Pogorelsky (total number of candidates: 10, selected 9, three not valid, hence Mr. LOT 158 should have been automatically elected on 17 October 2018).
- FY 2020, three unfinancial members on the committee: Mrs. Marianna Paltikian, Mr. Moses Levitt, Mr. Stan Pogorelsky (total number of candidates: 10, selected 9, three not valid, hence Mr. LOT 158 should have been automatically elected).
- In all other years since 2012, Mr. LOT 158 would have been a member of the committee by default, because there were no candidates to oppose it.
- In his secret email dated 23 August 2017, Solicitor Adrian Mueller confirmed the knowledge of allegations against committee members who were unfinancial, but proceeded to prevent Lot 158's Motions from being considered at AGM 2017:



3.4 Recent Allegations (total damages of \$30,000).

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.

Unredacted evidence in document "SP52948-AGM-2012-paperwork.pdf".

Unredacted evidence in document "SP52948-Solicitor-Adrian-Mueller-letter-23Aug2017.pdf".

Unredacted evidence in document "SP52948-premeditated-plan-by-Solicitor-Adrian-Mueller-to-prevent-Applicant-Motions-and-disallow-owners-to-vote-at-AGM-2017.pdf".

Narrative 16 – Solicitor Adrian Mueller prevented this Motion from AGM 2017 in regards to owners corporation confirming financial losses to Lot 158 due to Solicitor’s illegal representations in CTTT and District Court cases

155) One of numerous Motions prevented by Solicitor Adrian Mueller through premeditated plan how to ignore Lot 158:

Motion: Financial Losses to Lot 158 due to actions by BCS Strata Management and EC members

The Owners Corporation SP52948 by ORDINARY RESOLUTION, confirms the following:

Partial listing of direct losses to Lot 158 due to reported mismanagement of SP52948 with evidence, and undisclosed benefits to selective owners and EC members without Special By-Laws and Special Resolutions:

- **\$26,500.00 for payments to SP52948 for dismissed CTTT cases and decision in District Court in 2014, plus costs for postage and handling, and strata document searches without being provided access to files, amounting to additional around \$2,700.00:**
 - Lot 158 payment to SP52948 in amount of \$10,000.00 on 13th of February 2014.
 - Lot 158 payment to SP52948 in amount of \$16,500.00 on 7th of March 2014.
- **\$2,737.90 for payments to Chambers Russell Lawyers for forced defense at District Court.**
- **218th part of loss in SP52948 funds in amount of \$72,650.99 (complex has 218 properties) due to secret gas and water reimbursements without owners corporation approval (no Special By-Law and Special Resolution) in period 1999 to 2013 (details for financial years 1999, 2000, 2001, 2002, 2005, and 2006 are undisclosed by BCS Strata Management, Waratah Strata Management, and Executive Committee).**
- **218th part of \$851.56 for secret courier expenses that were incurred by SP52948 for urgent document delivery to Solicitor Mr. Adrian Mueller on 19th of April 2013.**
- **218th part of loss in SP52948 funds in amount \$17,990.00 due to overpaid contract for BCS Strata Management in 2012, 2013, 2014, 2015, and 2016, as per secret negotiation between single EC member and BCS Strata Management NSW Manager Mr. Greg Freeman dated 24th of October 2011. Loss per year to owners and myself: “loyalty discount” was supposed to decrease contract value from \$33,498.00 to \$29,900.00. BCS Strata Management “won” contracts without tender in all years between 1999 and 2016.**
- **218th part of loss in SP52948 funds in amount of \$63,318.77 (GST included) for payments to Solicitor Mr. Adrian Mueller for CTTT events and four reviews of Lot 158 Motions at general meetings without full disclosure to owners corporation.**
- **218th part of loss in SP52948 funds in amount of \$8,800.00 for repayment to CHU Insurance in March 2017, who, four years after the event, declared that owners corporation did not have right to make such claim.**
- **218th part of loss in SP52948 funds: Based on all available documents and minutes of meetings, so far the conclusion that can be reached with reasonable level of confidence is that the four EC members alone (Mrs. Lorna Zelenzuk Lot 3, Mr. Upali Aranwela Lot 62, Mr. Moses Levitt Lot 147, and Mr. Stan Pogorelsky Lot 181) owe to owners corporation around \$10,000.00 (plus 10% interest applied in each year) in UNPAID GAS LEVIES for the period of at least 15 years. It also means they were UNFINANCIAL and could not make any decisions at general meetings. The evidence shows that gas levies were set to \$200.00 as early as 21st of July 1999 but never paid by EC members and owners with second gas connection until 2015.**
- **218th part of loss in SP52948 funds in amount of around \$14,000.00 for overpaid payments to Building Manager Universal Property Services for decreased security guard working hours during whole 2014, which BCS Strata Management and EC members ignored in spite of advance notice on 1st of December 2013 and was orally reported at AGM 2014 but not disclosed to owners in Minutes of the meeting.**

Unredacted evidence in document “SP52948-premeditated-plan-by-Solicitor-Adrian-Mueller-to-prevent-Applicant-Motions-and-disallow-owners-to-vote-at-AGM-2017.pdf”.

Unredacted evidence in document “SP52948-Motions-by-Lot-158-prevented-from-voting-by-Waratah-Strata-Management-without-legal-grounds-AGM-2017.pdf”.

Narrative 17 – Secret conduct by Solicitor Adrian Mueller in NCAT case SC 20/33352

156) Owners corporation SP52958 engaged Solicitor Adrian Mueller (without providing owners or NCAT with evidence of Solicitor’s signed Standard Costs Agreement and evidence of legally convened and compliant general meeting which made decision to engage him), who reviewed Lot 158’s partial documents on 9 and 10 December 2020 and as a consequence failed to comply with Tribunal’s Directions Hearing to submit files by post and email by 20 November 2020.

Extract from Solicitor Adrian Mueller’s invoice 101676 dated 11 December 2020:

TIME BILLING SUMMARY		
Date	Description	Amount
23 Oct 20	Perusing email from strata manager providing instructions to act for owners corporation in NCAT case	\$55.00
26 Oct 20	Perusing NCAT application lodged by [REDACTED]	\$550.00
27 Oct 20	Exchanging emails with strata manager regarding date of NCAT hearing	\$55.00
12 Nov 20	Perusing email from strata manager regarding potential cross application against [REDACTED] concerning enforcement of unreasonable communications by-law	\$55.00
13 Nov 20	Perusing communications passing between [REDACTED] and NCAT concerning extensions of time to deliver evidence and perusing NCAT notices of procedural directions, extensions of time to comply with procedural directions and hearing details	\$220.00
23 Nov 20	Exchanging emails with strata manager regarding NCAT timetable and service of evidence by owners corporation	\$55.00
09 Dec 20	Perusing statutory declaration and folder of documents served by [REDACTED] (500 pages)	\$3,025.00
10 Dec 20	Perusing further documents in folder of documents served by [REDACTED] (204 pages) in NCAT case	\$1,210.00
10 Dec 20	Drafting schedule of observations regarding statutory declaration of [REDACTED]	\$825.00
10 Dec 20	Drafting schedule of observations regarding evidence of [REDACTED]	\$1,100.00

During November and December 2020, Solicitor Adrian Mueller continued to incur costs, without executing Tribunal orders.

Solicitor Adrian Mueller was fully aware of Directions Hearing dated 25 September 2020, which in order 6 requested that the Respondent provides to Lot 158 and the Tribunal, either in person or by post, and by email, a copy of all documents on which the Respondent wanted to rely, by 20 November 2020.

157) Solicitor Adrian Mueller’s invoice 102134 dated 3 February 2020 contains details of secret communications between owners corporation SP542948 and NCAT, which included the Respondent email filing their Outline of Submissions on 14 December 2020 which the Applicant received as late as 25 January 2021 (after the Directions Hearing deadline imposed on the Respondent), and NCAT confirmation of acceptance of electronically filed submissions, which was strictly denied to Lot 158:

TIME BILLING SUMMARY

Date	Description
11 Dec 20	Perusing email from NCAT regarding request for file inspection
14 Dec 20	Exchanging emails with NCAT regarding request for file inspection
14 Dec 20	Drafting outline of submissions
14 Dec 20	Drafting letter to applicant’s serving outline of submissions
14 Dec 20	Drafting letter to NCAT enclosing outline of submissions for filing
14 Dec 20	Drafting email to Tribunal and applicants filing and service electronically Outline of Submissions of owners corporation
14 Dec 20	Email to you submitting draft of Outline of Submissions of owners corporation
14 Dec 20	Attending NCAT on telephone to discuss file inspection
14 Dec 20	Review of Deed of Release and previous Tribunal litigation involving [REDACTED] to ascertain existence of any additional defences to NCAT application by [REDACTED]
24 Dec 20	Perusing email from strata manager providing instructions to file and serve NCAT submissions
25 Jan 21	Perusing email from NCAT regarding electronic filing of submissions
29 Jan 21	Email to NCAT regarding electronic filing of submissions
29 Jan 21	Perusing email from NCAT confirming acceptance of electronically filed submissions

158) The document that Solicitor Adrian Mueller emailed to Mr. LOT 158 on 25 January 2021 has the following hidden metadata, showing with reasonable level of confidence, that Solicitor Adrian Mueller deliberately kept the document undisclosed to Lot 158 (last modified on 24 December 2020) until the deadline to submit it expired (25 January 2021):

Producer: Aspose.Words for .NET 18.4
Creator: Microsoft Office Word
Created: Mon 14 Dec 2020 00:55:00 AEDT
Modified: Thu 24 Dec 2020 00:43:00 AEDT
Format: PDF-1.5|
Number of Pages: 4
Optimized: No
Security: No
Paper Size: A4, Portrait (210 × 297 mm)
Size: 83.4 kB

Schedule 4, Clause 10(2) of the NSW Civil & Administrative Tribunal Act 2013 provides the following:

- (a) If the party causing the disadvantage is the applicant – order that the proceedings (or part of the proceedings) be dismissed or struck out, or
- (b) If the party causing the disadvantage is not the applicant:
- (i) determine the proceedings (or part of the proceedings) in favour of the applicant and make any appropriate orders, or
 - (ii) order that the party causing the disadvantage be struck out of the proceedings (or part of the proceedings).

159) Mr. LOT 158’s unredacted evidence in email to NCAT and committee members with Subject “Applicant’s belated response due to lack of actions by Respondent – 1 February 2021”, said:

Dear NCAT,

As predicted by us in advance, the Respondent failed to comply with multiple Tribunal orders. Please refer to attachment "NCAT-20-33352-Applicant-letter-1Feb2021.pdf". This made the Applicant's actions very difficult and unnecessarily complex.

Completely unrelated to us, another owner, Lot 160 sent an urgent plea to all letterboxes two weeks ago, complaining about misconduct of strata manager and the management of the complex (attachment "SP52948-Lot-162-letterbox-notice-call-for-EGM-and-better-management-18Jan2021.jpg").

The Applicant requests that Solicitor Adrian Mueller be struck out from the proceedings due to lack of evidence of his retainer, conflict of interest, repeated failures to comply with Tribunal directions and orders (five times since 2012), being listed as person-of-interest in a Police Event for fraud and Office of Legal Services Commissioner case for professional misconduct.

Instead of dealing with the CTTT/NCAT cases, Solicitor Adrian Mueller secretly attempted to initiate four alleged “defamation cases”, last time on 21 October 2020. His persistence to obstruct legal processes disqualify him from acting on behalf of few owners.

Solicitor Adrian Mueller, even in the short outline of his response sent in email on 25 January 2021, failed to comply with Section 71 of the Civil and Administrative Tribunal Act 2013 which states that a person must not in any proceedings or application provide any information, or make any statement, to NCAT knowing that the information or statement is false or misleading.

Document “NCAT-20-33352-Applicant-letter-1Feb2021.pdf”.

Narrative 18 – Solicitor Adrian Mueller co-operated with strata manager to hide his costs in accounting figures during CTTT case SCS 12/32675 and SCS 12/50460 in 2013

160) This was status of financial documents on 4 March 2013, as listed at BCS Strata Community website for owners corporation SP52948. Six-monthly financial statement Document ID 5200006, written by Strata Manager Mr. Peter Bone (he was removed from managing SP52948 for unsatisfactory performance later). It hid secret legal expenses, which were paid to Solicitor Mr. Adrian Mueller without owners corporation knowledge or approval.

Unredacted evidence in “SP52948-FONTENOY_FIN REPORT_1Sep2012_28Feb2013-balance-sheet.pdf”.

Unredacted evidence in document “SP52948-Accounting-balance-sheet-1Sep2012-to-28Feb2013-CORRECTION-on-23Mar2013-img-423171440-0001.pdf”.

Solicitor Adrian Mueller had this information available to him but he withheld it from CTTT and his own costs were kept secret from owners in the complex in all committee meetings throughout the CTTT cases.

ItemId	PlanNo	PlanNameAdd	Category	Title	DocDate
5200006	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Sx mthly accounts	9/04/2013
4464244	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Jan 03 to Dec 04	2/11/2012
4464255	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Period Ending 08/08	2/11/2012
4464258	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	YE 08/07	2/11/2012
4464301	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Receipts journal 08/07 to 08/08	2/11/2012
4464305	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	YE 08/09	2/11/2012
4464309	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Abrdg Fin Pos 08/10	2/11/2012
4464318	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Bamfield & Co 09/11	2/11/2012
4464323	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	2010	2/11/2012
4464329	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	09/08 to 02/09	2/11/2012

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

161) Upon complaints from two owners (Mr. LOT 158 included) who had more knowledge of the issue, strata manager Peter Bone issued an amended version of the document on 23 March 2013 but did not share it with CTTT and owners directly:

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

Another staff member at BCS Strata Management tried to offer weak explanation and even used fraudulent insurance claims for non-existent legal case:

From: Steven.Zouroudis

Sent: Tuesday, 23 April 2013 2:35 PM

To: Michael BM (retired university professor)

Cc: Paul Banoob; Peter Bone; Krisna Sopia

Subject: SP 52948 - six monthly accounts

The income received from the insurance company in regards to legals is now showing in the accounts. The previous six monthly accounts you received had the insurance claim for legal fees taken up as a asset and offset once the money was received.

I have attached the paperwork from the insurance company of the claims received. The amounts are:-

\$948.55 for burst pipe U190

\$12714.65 for CTTT Defence for Lot 3

\$367.64 for CTTT Defence for Lot 3

There may be more claims that are pending from the insurance company, you will need to discuss this with your strata manager.

Please advise if you need any more clarification of the six monthly accounts provided.

Steven Zouroudis

Assistant Accountant

Level 27, 66-68 Goulburn Street, Sydney NSW 2000

Locked Bag 22, Haymarket NSW 1238

F: (02) 9212 6269

Amended accounting figures were temporarily available (but not sent to any owners or CTTT), and then again removed permanently before the general meeting and CTTT's decisions in cases SCS 12/32675 and SCS 12/50460 (removed the amended financials to ensure success of the meeting in their favour - Document ID 5304628 disappeared forever):

ItemId	PlanNo	PlanNameAdd	Category	Title	DocDate
5304628	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	SIX MONTHLY AMENDED	30/04/2013
5200006	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Sx mthly accounts	9/04/2013
4464244	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Jan 03 to Dec 04	2/11/2012
4464255	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Period Ending 08/08	2/11/2012
4464258	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	YE 08/07	2/11/2012
4464301	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Receipts journal 08/07 to 08/08	2/11/2012
4464305	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	YE 08/09	2/11/2012
4464309	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Abrdg Fin Pos 08/10	2/11/2012
4464318	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Bamfield & Co 09/11	2/11/2012
4464323	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	2010	2/11/2012

ItemId	PlanNo	PlanNameAdd	Category	Title	DocDate
6306911	n52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Bamfield & Co audit report 2013	10/10/2013
6306912	n52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Bamfield & Co audit report 2013	10/10/2013
5200006	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Sx mthly accounts	9/04/2013
4464244	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Jan 03 to Dec 04	2/11/2012
4464255	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Period Ending 08/08	2/11/2012
4464258	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	YE 08/07	2/11/2012
4464301	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Receipts journal 08/07 to 08/08	2/11/2012
4464305	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	YE 08/09	2/11/2012
4464309	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Abrdg Fin Pos 08/10	2/11/2012
4464318	N52948	1-15 FONTENOY ROAD MACQUARIE PARK NSW	Financials	Bamfield & Co 09/11	2/11/2012

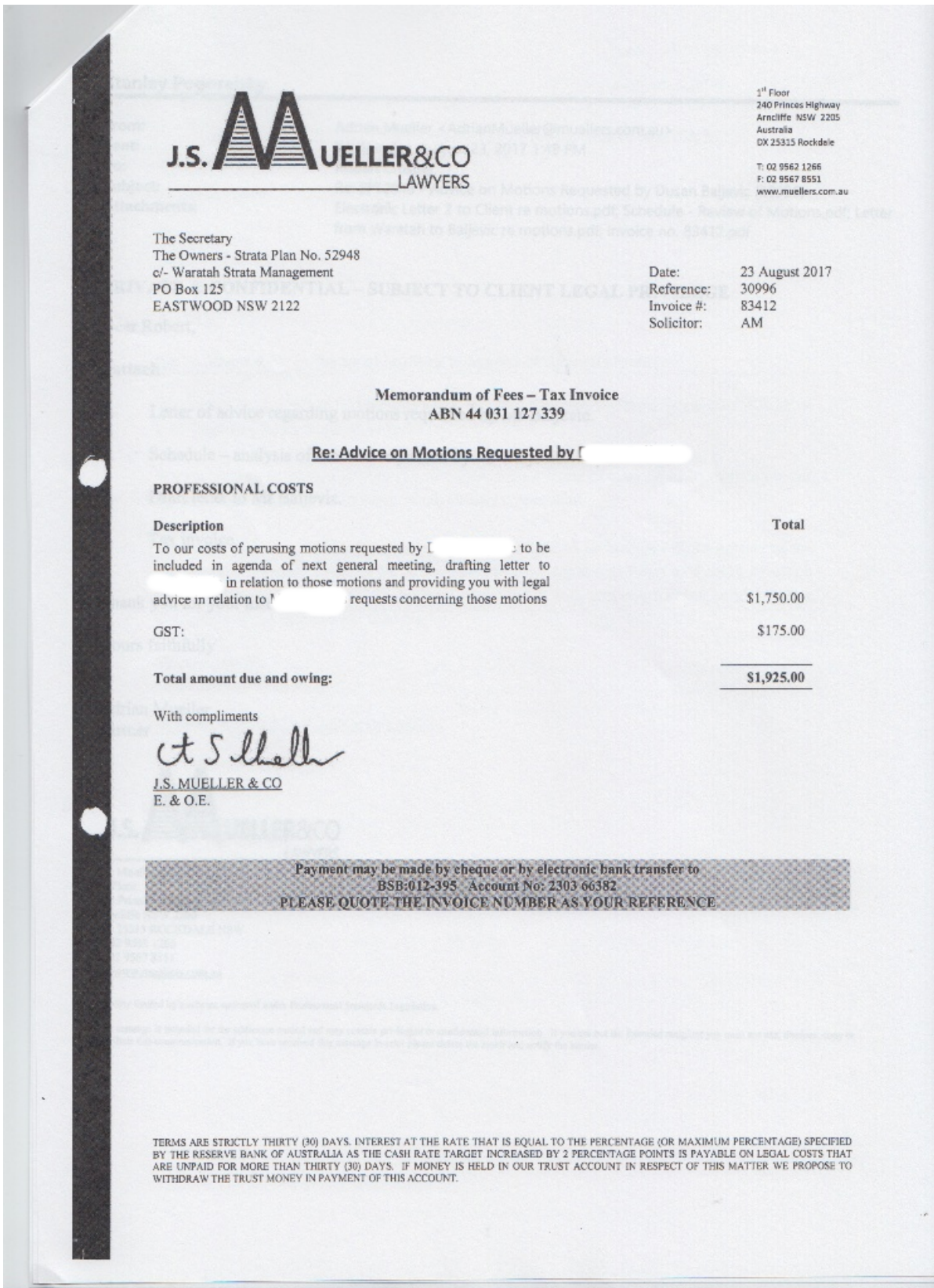
Narrative 19 – Solicitor Adrian Mueller kept secret from NCAT in case SC 12/33352 that he was paid for services (without evidence of signed Standard Costs Agreement or decision at any legally convened meeting) four months after the invoice to move the costs into different financial year

162) Mr. LOT 158 warned Waratah Strata Management in email on 23 June 2019:

Invoice sent by Solicitor Adrian Mueller on 23 August 2017.

Invoice paid on 11 December 2017, so that it does not fall in FY 2017 accounting and was well hidden in unspecified "legal fees" provided to owners in agenda for AGM 2018.

Invoice paid almost four months after the Solicitor's request.



December 2017, Solicitor Adrian Mueller was paid for three invoices, in total amount of \$5,200.00 (GST exclusive).

Date	Details	Payee	Amount (GST exclusive)	Status	Type	Ref.No.	Payment No.
18/09/2017	Lot 215 Le Page Lawyer Fees	Le Page Lawyers	120.00	Paid	DE	79277	000240
18/09/2017	Lot 217 Le Page Lawyer Fees	Le Page Lawyers	120.00	Paid	DE	79279	000240
18/09/2017	Lot 90 Le Page Lawyer Fees	Le Page Lawyers	120.00	Paid	DE	79225	000240
18/09/2017	Lot 184 Le Page Lawyer Fees	Le Page Lawyers	120.00	Paid	DE	79276	000240
03/10/2017	Levy Reminder Notice October 2017	Waratah Strata Management	425.00	Paid	DE		000258
16/10/2017	Lot 26: Debt recovery Stage 2		(50.00)		Ow.Inv		
16/10/2017	Lot 40: Debt recovery Stage 2		(50.00)		Ow.Inv		
16/10/2017	Lot 77: Debt recovery Stage 2		(50.00)		Ow.Inv		
16/10/2017	Lot 123: Debt recovery Stage 2		(50.00)		Ow.Inv		
16/10/2017	Lot 206: Debt recovery Stage 2		(50.00)		Ow.Inv		
23/10/2017	Lot 184: Le Page Lawyers Fee		(35.00)		Ow.Inv		
23/10/2017	Lot 184 Le Page Lawyer Fees	Le Page Lawyers	35.00	Paid	DE	79602	000275
30/10/2017	Review Bylaws	Jane Crittenden Lawyer	1,972.60	Paid	DE	5798349	000280
02/11/2017	Levy Warning Notice November 2017	Waratah Strata Management	250.00	Paid	DE		000284
06/11/2017	Change of Address	By Law Plus	638.18	Paid	DE	WSM1048	000289
16/11/2017	Lot 26: Debt recovery Stage 3		(50.00)		Ow.Inv		
04/12/2017	Levy Final Demand December 2017	Waratah Strata Management	50.00	Paid	DE		000315
11/12/2017	Lot 4: Debt recovery Stage 1		(25.00)		Ow.Inv		
11/12/2017	Lot 10: Debt recovery Stage 1		(25.00)		Ow.Inv		
11/12/2017	Lot 16: Debt recovery Stage 1		(25.00)		Ow.Inv		
11/12/2017	Lot 38: Debt recovery Stage 1		(25.00)		Ow.Inv		
11/12/2017	Lot 72: Debt recovery Stage 1		(25.00)		Ow.Inv		
11/12/2017	Lot 74: Debt recovery Stage 1		(25.00)		Ow.Inv		
11/12/2017	Lot 93: Debt recovery Stage 1		(25.00)		Ow.Inv		
11/12/2017	Lot 115: Debt recovery Stage 1		(25.00)		Ow.Inv		
11/12/2017	Lot 132: Debt recovery Stage 1		(25.00)		Ow.Inv		
11/12/2017	Lot 164: Debt recovery Stage 1		(25.00)		Ow.Inv		
11/12/2017	Lot 204: Debt recovery Stage 1		(25.00)		Ow.Inv		
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 [REDACTED]	J.S. Mueller & Co	1,750.00	Paid	DE	83412	000323
11/12/2017	Advice on Communications by [REDACTED]	J.S. Mueller & Co	2,700.00	Paid	DE	83410	000323
15/01/2018	Levy Reminder Notice January 2018	Waratah Strata Management	275.00	Paid	DE		000332
16/01/2018	Lot 10: Debt recovery Stage 2		(50.00)		Ow.Inv		
16/01/2018	Lot 110: Debt recovery Stage 2		(50.00)		Ow.Inv		
16/01/2018	Lot 203: Debt recovery Stage 2		(50.00)		Ow.Inv		
02/02/2018	Levy Warning Notice February 2018	Waratah Strata Management	150.00	Paid	DE		000357
16/02/2018	Lot 10: Debt recovery Stage 3		(50.00)		Ow.Inv		
02/03/2018	Levy Final Demand March 2018	Waratah Strata Management	50.00	Paid	DE		000380
15/03/2018	Lot 24: Debt recovery Stage 1		(25.00)		Ow.Inv		
15/03/2018	Lot 51: Debt recovery Stage 1		(25.00)		Ow.Inv		
15/03/2018	Lot 52: Debt recovery Stage 1		(25.00)		Ow.Inv		
15/03/2018	Lot 59: Debt recovery Stage 1		(25.00)		Ow.Inv		
15/03/2018	Lot 70: Debt recovery Stage 1		(25.00)		Ow.Inv		

Original

No reply was received from strata manager or committee members.

Strata manager and committee members never provided this information to owners.

Narrative 20 – Solicitor Adrian Mueller’s actions increase fire safety and OH&S risks (long-overdue safety report professional report prepared for committee meeting on 3 March 2022)



5 Proposed Strategy

Table 6 Key and colour code for Table 7

Works can progress Core and XEL Agree	Further investigation is needed, documentation search, and additional site visits to see specific items, especially internally in the sun rooms.	To be detailed in an updated version of this concept report as it becomes a FEB (Fire Engineering Brief, or Performance Based Design Brief), and then it becomes the Fire Engineering Report (FER).
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Table 7 Strategy and commentary

BCA Dts Clause	Deemed-to-Satisfy Provision	XEL Consulting report	CORE Fire Engineering Comments
C1.1 & Spec 1.1	<ul style="list-style-type: none"> Clause 2.7 Enclosure of shafts 	<ul style="list-style-type: none"> Enclose all fire isolated stair shafts by walls of FRL 90/90/90 and enclose the top with construction having an FRL of -/90/90. 	<ul style="list-style-type: none"> Agree
C3.5	<ul style="list-style-type: none"> Doorways in firewalls 	<ul style="list-style-type: none"> Doors to plant rooms do not appear to be fire doors 	<ul style="list-style-type: none"> A fire door (including a fire-rated frame) is to be provided (-/120/30)
C3.11	<ul style="list-style-type: none"> Bounding construction: Class 2, 3, and 4 	<ul style="list-style-type: none"> Some bounding walls do not extend to the underside of the floor slab and the gaps are not properly fire-stopped 	<ul style="list-style-type: none"> Appropriate fire-stopping is to be provided to fix the gaps. The bounding walls are to be extended to the underside of the floor slab.
C3.12	<ul style="list-style-type: none"> Openings in floors and ceiling for services 	<ul style="list-style-type: none"> Engage a passive fire protection specialist to apply fire stopping to gaps between the service and the floor the electricity/communication and FHR cabinets and the floor/wall being penetrated. 	<ul style="list-style-type: none"> Agree

- Electrical equipment

Ignition Source

- Smoking, whether prohibited or not
- Light fittings
- Bundled cables
- Heating and air-conditioning equipment
- Vehicles

Basement
Car Park

Fuel Load

- Rubbish
- Vehicles

Preventative Measure

- Housekeeping
- No inside smoking policy and enforcement

Protective Measure

- Fire Hydrant
- Fire extinguishers
- Sprinklers



BCA DTS Clause	Deemed-to-Satisfy Provision	XEL Consulting report	CORE Fire Engineering Comments
C2.6	<ul style="list-style-type: none"> Vertical separation of openings in external walls 	<ul style="list-style-type: none"> Enclosed balconies do not have compliant spandrel separation. The spandrel is less than 900mm (~650mm) in height and less than 600mm(~450mm) above the floor. It is noted that sprinklers are installed in fully enclosed balconies. A sprinkler system requires an assessment as a performance-based solution. 	<ul style="list-style-type: none"> Do the unit owners have any approved documents, specifications or designs in relation to: <ul style="list-style-type: none"> The approved installation / construction of the sunrooms The fire sprinkler system installed within the sunrooms such as: <ul style="list-style-type: none"> Existing engineering reports Drawings of the water supply reticulation for sprinklers Specifications of the coverage or pressures achieved at the time of design for the sprinklers Details of the residency specific annual fire safety statement, or Schedule of essential services Without any supporting documentations, the building is required to be built as compliant structure, the sunrooms may need to be removed; alternatively Compliant spandrels could be added, and the existing design modified, however to avoid any complications to adjoining balconies all works would be required to the sun room balcony and slab edge of the balcony above, potentially resulting in very narrow slots circa 1m high for light. More information needed, and an inspection of each sunroom No performance solution proposed



BCA Dts Clause	Deemed-to-Satisfy Provision	XEL Consulting report	CORE Fire Engineering Comments
C2.12	<ul style="list-style-type: none"> Separation of equipment 	<ul style="list-style-type: none"> Enclose sprinkler valves in construction with FRL not less than 120/120/120. 	<ul style="list-style-type: none"> Are these the ones next to the garage parking entry? If they are, they can remain as they are not in an area of danger. Providing appropriate seals from the car park and have gated access to them from the ramp. To be detailed as a performance solution
D1.4	<ul style="list-style-type: none"> Exit travel distances 	<ul style="list-style-type: none"> Travel distances from some locations in the car park exceed 20m to the point of choice or 40m to the nearest exit: From the row of parking spaces on both sides of Building C lift lobby – up to 23m. From parking spaces south to Building A lift lobby – up to 31.5m From the tandem parking spaces to the southwest corner of the swimming pool to the nearest exit – up to 43.5m to the nearest exit stair. 	<p>We will attempt to find how it was originally designed and approved:</p> <ul style="list-style-type: none"> We noted that there were individual lockup doors installed within the garage. How were they designed originally? Was this installation approved? Are there any supporting documents? How were these non-compliance travel distances measured through car park spaces originally? What type of sprinkler heads and spacing is installed within the car park? Are there any supporting documents? Performance Solutions will be provided after the above-mentioned items are addressed.
D1.5	<ul style="list-style-type: none"> Distance between alternative exits 	<ul style="list-style-type: none"> Distances between alternative exits (via a point of choice) exceed 60m in the car park: <ul style="list-style-type: none"> 63.5m between stairs at Grid 24T and 22F 65.6m between stairs at Grid 22F and 11B 67.8m between stairs at Grid 22F and 11N 	
D1.10 & D1.10 NSW	<ul style="list-style-type: none"> Discharge from exits 	<ul style="list-style-type: none"> Provide crossover steps complying with Clause D2.18 and AS 1657 to enable traveling over the duct. 	<ul style="list-style-type: none"> To be included as a performance solution in the Fire Engineering Report, the gap is wider than the minimum pinch point of a door in a corridor of 750mm therefore it is fine.



BCA Dts Clause	Deemed-to-Satisfy Provision	XEL Consulting report	CORE Fire Engineering Comments
D1.6	<ul style="list-style-type: none"> Dimensions of exits and path of travel to exit 	<ul style="list-style-type: none"> Paths of travel from fire isolated stair of Building A; Car Park stair at Grid 11A discharging adjacent to Building A; and Grid 2W discharging adjacent to Building B, necessitate passing by within 3m of unprotected openings (car park vents). 	<ul style="list-style-type: none"> Car Park vents to be sealed and any openings to be dealt with approximately openings within 3m of the stair require filling in. Once this infill is complete the life safety issue will be fine, but we will also note the solution in the FER.

8.2 Limitations

This report does not include nor imply any design or assessment of compliance or upgrading for:

- The structural adequacy or design of the building;
- The inherent derived fire-resistance ratings of any proposed structural elements of the building;
- The design basis and/or operating capabilities of any proposed electrical, mechanical or hydraulic fire protection services (other than any specifically referred to within the FER);
- Business protection or business continuity;
- Insurer's requirements; and
- Property protection, other than adjacent properties.

This report also does not include, or imply compliance with:

- The Disability Discrimination Act (DDA) including the Disability (Access to Premises - Building) Standards 2012.
- Demolition Standards not referred to by the BCA.
- Occupational Health and Safety Act (Work practices under general Work Cover issues).
- Construction Safety Act (During building alterations and additions process only).
- Requirements of other Regulatory Authorities including, but not limited to, Telstra, Telecommunications Supply Authority, Water Supply Authority, Electricity Supply Authority, Work Cover, Roads and Maritime Services (RMS), Local Council, and the like.
- Conditions of Development Consent issued by the Local Consent Authority.

Lot 158 offers for costs in NCAT case SC 20/33352

Offer Option 1

163) Based on evidence that satisfies “on balance of probabilities” and “beyond reasonable doubt”, Solicitor Adrian Mueller engaged in premeditated, repetitive, and highly illegal actions which include falsifying documents, falsifying statements in Statutory Declaration to CTTT and District Court on behalf of strata manager Peter Bone, silently supported false statements of strata manager in his Affidavit to District Court, orchestrated falsification of his signed Standard Costs Agreement in CTTT case SCS 12/32675, continued to prevent all owners and Lot 158 to view any of his allegedly signed Standard Costs Agreements since 2012, contempt of courts, and much more, Lot 158 declare:

- I. None of the claims for legal costs in NCAT case 20/33352 shall be repaid under current circumstances, as there is no evidence Solicitor’s costs were legally approved or ratified by owners corporation. Solicitor Adrian Mueller continued to waste owners corporation funds and court time by not providing evidence of his retainer and other activities related to it.

Lot 158 cannot be coerced to be involved in fraud unless evidence is provided to the contrary.

Solicitor Adrian Mueller failed to provide response with unredacted files to O’Brien Criminal & Civil Solicitor’s letter dated 24 April 2020, failed to provide response with unredacted evidence to Mr. LOT 158’s email on 19 July 2021 (Subject line “FIRST RESPONSE FOR COSTS TO SOLICITOR ADRIAN MUELLER NCAT File No. SC 20/33352 (JSM 37289)”, failed to provide response with unredacted evidence to Mr. LOT 158’s email to OLSC and Solicitor on 8 February 2022 (Subject line “OLSC case CAS005901 - Request for Solicitor Adrian Mueller to respond with evidence on 8Feb2022”), and failed to provide unredacted details of COMPLETE BANK STATEMENTS (they are the only reliable evidence of payments from common funds) for owners corporation SP52948 and Trust account for Solicitor Adrian Mueller for period 1 February 2017 to now.

- II. Owners corporation, at own cost, shall organise Extraordinary General Meeting within two months and resubmit Lot 158 Motions (with appropriate changes to reflect new information) as presented at general meetings 2017, 2018, 2019, and 2020, which Solicitor Adrian Mueller influenced to not allow owners to receive or consider. Owners corporation shall commit to provide all owners will full evidence of NCAT case SC 20/33352.

As an example, Solicitor Adrian Mueller charged owners corporation \$2,700.00 for preventing Lot 158 at general meeting in 2020 on 28 September 2020:

28/09/2020 Advice on Motions Requested by Owner Lot 158

J.S. Mueller & Co

2,700.00 Paid DE 100582

- III. Owners corporation shall, at own costs, request NCAT to provide certified copies of audio recordings of Directions Hearing and Hearing in case SC 20/33352 and provide copies to Lot 158.

Lot 158, at own costs, have obtained all certified audio recordings for three Hearings in case CTTT SCS 12/32675.

- IV. Solicitor Adrian Mueller shall, at own expense, provide full response with unredacted files to O’Brien Criminal & Civil Solicitor’s letter dated 24 April 2020, full response with unredacted evidence to Mr. LOT 158’s email on 19 July 2021 (Subject line “FIRST RESPONSE FOR COSTS TO SOLICITOR ADRIAN MUELLER NCAT File No. SC 20/33352 (JSM 37289)”, and full response with evidence to Mr. LOT 158’s email to OLSC and Solicitor on 8 February 2022 (Subject line “OLSC case CAS005901 - Request for Solicitor Adrian Mueller to respond with evidence on 8Feb2022”).

- V. Owners corporation shall, at own cost, provide to all owners detailed response to each item in Mr. LOT 158’s Statutory Declaration dated 18 August 2020.

- VI. If the case goes to court, Lot 158 shall request that proceeding be struck out due to Solicitor Adrian Mueller repetitive abuse of court time and resources (petition the court and make a strong argument that the alleged offender's actions are in fact illegal).

- VII. If the case goes to court, Lot 158 shall request that proceedings be stayed until Office of Legal Services Commissioner case CAS005901 and pending submission in person for Crime Stoppers Event 648467 be finalised.

- VIII. If the case goes to court, Lot 158 shall request that subpoenas be issued for Solicitor Adrian Mueller, selective committee members, and strata manager at BCS Strata Management and Waratah Strata Management to produce unredacted evidence to court, Police, OLSC, and provide copies to Lot 158.

At common law, no privilege arises in respect of a communication made for a purpose that is contrary to the public interest; that is, where the communication is made in furtherance of an illegal or improper purpose, whether or not the legal adviser knows of that purpose.

For the purposes of the illegal or improper purpose principle, the relevant distinction is between a communication made for the purpose of being guided or helped in achieving an illegal or improper purpose, which is a non-privileged communication, as compared with a communication made for the purpose of seeking advice in relation to past conduct, which may be privileged.

However, a communication in relation to past conduct will not be privileged if the communication is for the purpose of covering up a crime or fraud, or for the purpose of defeating or delaying recovery by the victims of a crime or fraud.

The illegal or improper purpose principle covers all forms of fraud and dishonesty, including fraudulent breach of trust, fraudulent conspiracy, trickery and 'sham' contrivances, as well as cases of fraud by third parties.

IX. Due to four overdue repairs and safety checks of common property in Lot 158 (of which two are related to OH&S and fire safety), Lot 158 shall initiate NCAT case to enforce compliance with strata laws unless owners corporation takes immediate remediation steps:

- Fire safety checks for external door and two smoke alarms for 2022.
- Water leak damages near lighting on ceiling in sun-room (unresolved since September 2020),
- All intercom access points were scheduled to be tested in Block A on 10 February 2022. Lot 158 complained about their device not working occasionally several times and no repair or checks were done. On 10 February 2022, Lot 158 property was not visited by H&T Security.
- Third event with horrific window frame being blown on sun-room happened in complex on 29 November 2020 (this time it was Lot 190 on level 7 in Block A):



There is an outstanding task to check all sun-rooms in Block A since 1 December 2020 and this task has not been completed, at least not in Lot 158 property:

The screenshot shows the Waratah Strata Management website interface. At the top, the logo for Waratah Strata Management is displayed. Below the logo, there is a navigation menu with links for CONTACT, FAQ, CHANGE PASSWORD, and LOGOUT. A secondary navigation menu includes OWNERS CORPORATION, PORTFOLIO, REPORTS, MEETINGS, DOCUMENTS, and MAINTENANCE. The main content area is titled "Strata Plan 52948" and features two tabs: "Work Orders" and "Quotes". Under the "Work Orders" tab, there is a section for "Open Work Orders" which contains a table with the following data:

Date	Status	Job Summary	No
28/05/2021	Sent	Replace FIP batteries	9988
03/12/2020	Sent	Lot 158 Sunroom Leak	8888
01/12/2020	Sent	Inspect A & B Block sun room window frames	8869
01/12/2020	Sent	Inspect C & D Block sun room window frames.	8870

X. To prevent further legal costs, owners corporation shall promptly reimburse recovery of lost funds for Mrs. LOT 158, who, on behalf of Mr. LOT 158, paid:

- Penalty in amount of \$26,500.00 based solely on Mr. Peter Bone's Statutory declaration which was fully prepared and organised by Solicitor Adrian Mueller.
- \$2,737.90 to Chambers Russell Lawyers for unnecessary case in District Court case 13/360456 where, the Solicitor's defence was based on false Statutory Declaration by Mr. Peter Bone and false statements by Mr. Peter Bone in his Affidavit.
- \$700.00 for Mr. LOT 158 being forced to deliver extra folders to Solicitor Adrian Mueller on 18 April 2013 (due to fact that strata manager lost first folder, which was not Mr. LOT 158's responsibility or problem).
- Document searches where strata managers and committee members failed to provide paid services in amount \$3,564.95.

Offer Option 2

164) If Solicitor Adrian Mueller provides full response with unredacted files to O'Brien Criminal & Civil Solicitor's letter dated 24 April 2020, provide full response with unredacted evidence to Mr. LOT 158's email on 19 July 2021 (Subject line "FIRST RESPONSE FOR COSTS TO SOLICITOR ADRIAN MUELLER NCAT File No. SC 20/33352 (JSM 37289)", provide full response with unredacted evidence to Mr. LOT 158's email to OLSC and Solicitor on 8 February 2022 (Subject line "OLSC case CAS005901 - Request for Solicitor Adrian Mueller to respond with evidence on 8Feb2022"), and provide unredacted details of COMPLETE BANK STATEMENTS (they are the only reliable evidence of payments from common funds) for owners corporation SP52948 and Trust account for Solicitor Adrian Mueller for period 1 February 2017 to now:

I. Lot 158 commit to take serious consideration for reviewing the legal costs and address them accordingly.

There are number of dubious items on Solicitor's invoices, and they will be carefully checked and response provided if Solicitor Adrian Mueller provides unredacted evidence of their existence.

Waratah Strata Management provided these figures in agenda for general meeting in October 2021, which cannot be verified due to lack of banking statements:

02/11/2020 Refund SP97451 Lot 1158 courier to Mueller \$14.46
28/09/2020 Advice on Motions requested by owner Lot 158 \$2,700.00
26/10/2020 Defamation by Lot 158 \$413.50
23/11/2020 Defamation by Lot 158 (Hussein Elachkar) \$1,218.75
14/12/2020 NCAT application Lot 158 \$8,030.00
8/02/2021 NCAT application Lot 158 \$2,213.55
19/04/2021 NCAT application Lot 158 \$4,921.40
10/05/2021 NCAT application Lot 158 \$3,198.75
11/06/2021 NCAT application Lot 158 \$1,899.45

Total expenses (GST exclusive) for Solicitor Adrian Mueller, without costs for barrister Hussein Elachkar, in FY 2021: \$26,076.55.

II. Owners corporation shall, at own cost, organise Extraordinary General Meeting within two months and resubmit Lot 158 Motions (with appropriate changes to reflect new information) as presented at general meetings 2017, 2018, 2019, and 2020, which Solicitor Adrian Mueller influenced to not allow owners to vote. Owners corporation shall commit to provide all owners will full evidence of NCAT case SC 20/33352.

Solicitor Adrian Mueller charged owners corporation \$2,700.00 for preventing Lot 158 at general meeting in 2020 on 28 September 2020:

28/09/2020 Advice on Motions Requested by Owner Lot 158	J.S. Mueller & Co	2,700.00	Paid	DE	100582
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III. Owners corporation shall, at own costs, request NCAT to provide certified copies of audio recordings of Directions Hearing and Hearing in case SC 20/33352 and provide copies to Lot 158.

Lot 158, at own costs, have obtained all certified audio recordings for three Hearings in case CTTT SCS 12/32675.

IV. Solicitor Adrian Mueller charged owners corporation \$2,700.00 for preventing Lot 158 at general meeting in 2020 on 28 September 2020:

28/09/2020 Advice on Motions Requested by Owner Lot 158	J.S. Mueller & Co	2,700.00	Paid	DE	100582
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V. Solicitor Adrian Mueller shall, at own expense, provide full response with unredacted files to O'Brien Criminal & Civil Solicitor's letter dated 24 April 2020, full response with unredacted evidence to Mr. LOT 158's email on 19 July 2021 (Subject line "FIRST RESPONSE FOR COSTS TO SOLICITOR ADRIAN MUELLER NCAT File No. SC 20/33352 (JSM 37289)", and full response with evidence to Mr. LOT 158's email to OLSC and Solicitor on 8 February 2022 (Subject line "OLSC case CAS005901 - Request for Solicitor Adrian Mueller to respond with evidence on 8Feb2022").

VI. Owners corporation shall, at own cost, provide to all owners detailed response to each item in Mr. LOT 158's Statutory Declaration dated 18 August 2020.

VII. If the case goes to court, Lot 158 shall request that proceeding be struck out due to Solicitor Adrian Mueller repetitive abuse of court time and resources (petition the court and make a strong argument that the alleged offender's actions are in fact illegal).

VIII. If the case goes to court, Lot 158 shall request that proceedings be stayed until Office of Legal Services Commissioner case CAS005901 and pending submission in person for Crime Stoppers Event 648467 be finalised.

IX. If the case goes to court, Lot 158 shall request that subpoenas be issued for Solicitor Adrian Mueller, selective committee members, and strata manager at BCS Strata Management and Waratah Strata Management to produce unredacted evidence to court, Police, OLSC, and provide copies to Lot 158.

At common law, no privilege arises in respect of a communication made for a purpose that is contrary to the public interest; that is, where the communication is made in furtherance of an illegal or improper purpose, whether or not the legal adviser knows of that purpose.

For the purposes of the illegal or improper purpose principle, the relevant distinction is between a communication made for the purpose of being guided or helped in achieving an illegal or improper purpose, which is a non-privileged communication, as compared with a communication made for the purpose of seeking advice in relation to past conduct, which may be privileged.

However, a communication in relation to past conduct will not be privileged if the communication is for the purpose of covering up a crime or fraud, or for the purpose of defeating or delaying recovery by the victims of a crime or fraud.

The illegal or improper purpose principle covers all forms of fraud and dishonesty, including fraudulent breach of trust, fraudulent conspiracy, trickery and 'sham' contrivances, as well as cases of fraud by third parties.

X. Due to four overdue repairs and safety checks of common property in Lot 158 (of which two are related to OH&S and fire safety), Lot 158 shall initiate NCAT case to enforce compliance with strata laws:

- Fire safety checks for external door and two smoke alarms for 2022.
- Water leak damages near lighting on ceiling in sun-room (unresolved since September 2020),

- All intercom access points were scheduled to be tested in Block A on 10 February 2022. Lot 158 complained about their device not working occasionally several times and no repair or checks were done. On 10 February 2022, Lot 158 property was not visited by H&T Security.
- Third event with horrific window frame being blown on sun-room happened in complex on 29 November 2020 (this time it was Lot 190 on level 7 in Block A):



There is an outstanding task to check all sun-rooms in Block A since 1 December 2020 and this task has not been completed, at least not in Lot 158 property:

The screenshot shows the WARATAH Strata Management website interface. At the top, the logo for WARATAH Strata Management is displayed. Below the logo, there is a navigation menu with options: OWNERS CORPORATION, PORTFOLIO, REPORTS, MEETINGS, DOCUMENTS, and MAINTENANCE. The main content area is titled "Strata Plan 52948" and contains two tabs: "Work Orders" and "Quotes". Under the "Work Orders" tab, there is a section titled "Open Work Orders" which contains a table with the following data:

Date	Status	Job Summary	No
28/05/2021	Sent	Replace FIP batteries	9988
03/12/2020	Sent	Lot 158 Sunroom Leak	8888
01/12/2020	Sent	Inspect A & B Block sun room window frames	8869
01/12/2020	Sent	Inspect C & D Block sun room window frames.	8870

XI. To save legal costs, owners corporation shall promptly reimburse lost funds for Mrs. LOT 158, who, on behalf of Mr. LOT 158, paid:

- Penalty in amount of \$26,500.00 based solely on Mr. Peter Bone's Statutory declaration which was fully prepared and organised by Solicitor Adrian Mueller.
- \$2,737.90 to Chambers Russell Lawyers for unnecessary case in District Court case 13/360456 where, the Solicitor's defence was based on false Statutory Declaration by Mr. Peter Bone and false statements by Mr. Peter Bone in his Affidavit.
- \$700.00 for Mr. LOT 158 being forced to deliver extra folders to Solicitor Adrian Mueller on 18 April 2013 (due to fact that strata manager lost first folder, which was not Mr. LOT 158's responsibility or problem).
- Document searches where strata managers and committee members failed to provide paid services in amount \$3,564.95.

Offer Option 3

165) The following is offered:

- I. Solicitor Adrian Mueller and owners corporation shall unconditionally withdraw the claim for legal costs (avoid Lot 158 petition the court to make a strong argument that the alleged offender's actions are in fact illegal) and privately settle with Lot 158 for the following events.
- II. Owners corporation shall promptly attend to four overdue repairs and safety checks of common property in Lot 158's property:
 - Fire safety checks for external door and two smoke alarms for 2022.
 - Water leak damages near lighting on ceiling in sun-room (unresolved since September 2020),
 - All intercom access points were scheduled to be tested in Block A on 10 February 2022. Lot 158 complained about their device not working occasionally several times and no repair or checks were done. On 10 February 2022, Lot 158 was not visited by H&T Security.
 - Third event with horrific window frame being blown on sun-room happened in complex on 29 November 2020 (this time it was Lot 190 on level 7 in Block A):



There is an outstanding task to check all sun-rooms in Block A since 1 December 2020 and this task has not been completed, at least not in Lot 158 property:

The screenshot shows the Waratah Strata Management website interface. At the top, there is a navigation menu with links for CONTACT, FAQ, CHANGE PASSWORD, and LOGOUT. Below the navigation, there are tabs for OWNERS CORPORATION, PORTFOLIO, REPORTS, MEETINGS, DOCUMENTS, and MAINTENANCE. The main content area displays 'Strata Plan 52948' and two tabs: 'Work Orders' and 'Quotes'. Under the 'Work Orders' tab, there is a section titled 'Open Work Orders' which contains a table with the following data:

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01/12/2020	Sent	Inspect C & D Block sun room window frames.	8870

III. Owners corporation shall, at own cost, organise Extraordinary General Meeting within two months and resubmit Lot 158 Motions (with appropriate changes to reflect new information) as presented at general meetings 2017, 2018, 2019, and 2020, which Solicitor Adrian Mueller influenced to not allow owners to vote. Owners corporation shall commit to provide all owners will full evidence of NCAT case SC 20/33352.

Solicitor Adrian Mueller charged owners corporation \$2,700.00 for preventing Lot 158 at general meeting in 2020 on 28 September 2020:

28/09/2020 Advice on Motions Requested by Owner Lot 158

J.S. Mueller & Co

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IV. Owners corporation shall, at own costs, request NCAT to provide certified copies of audio recordings for Directions Hearing and Hearing in case SC 20/33352 and provide copies to Lot 158.

Lot 158, at own costs, has obtained all certified audio recordings for three Hearings in case CTTT SCS 12/32675.

V. Solicitor Adrian Mueller shall, at own expense, provide full response with unredacted files to O'Brien Criminal & Civil Solicitor's letter dated 24 April 2020, full response with unredacted evidence to Mr. LOT 158's email on 19 July 2021 (Subject line "FIRST RESPONSE FOR COSTS TO SOLICITOR ADRIAN MUELLER NCAT File No. SC 20/33352 (JSM 37289)", and full response with evidence to Mr. LOT 158's email to OLSC and Solicitor on 8 February 2022 (Subject line "OLSC case CAS005901 - Request for Solicitor Adrian Mueller to respond with evidence on 8Feb2022"), and unredacted details of COMPLETE BANK STATEMENTS (they are the only reliable evidence of payments from common funds) for owners corporation SP52948 and Trust account for Solicitor Adrian Mueller for period 1 February 2017 to now.

VI. Owners corporation shall, at own cost, provide to all owners detailed response to each item in Mr. LOT 158's Statutory Declaration dated 18 August 2020.

VII. To save legal costs, owners corporation shall promptly reimburse lost funds for Mrs. LOT 158, who, on behalf of Mr. LOT 158, paid:

- Penalty in amount of \$26,500.00 based solely on Mr. Peter Bone's Statutory declaration which was fully prepared and organised by Solicitor Adrian Mueller.
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- Document searches where strata managers and committee members failed to provide paid services in amount \$3,564.95.