

**Example of how BCS Strata Management won contract renewal through providing secret cash advance due to lack of owners corporation funds and without tender with SP52948 on 26 November 2014**

Large Strata Plan SP52948:

Total number of owners: 218.

27 owners were present at the meeting in person.

39 owners were present at the meeting via proxies.

- Chairperson Mr. Bruce Copland failed to inform owners corporation that the following owners were unfinancial to vote or be elected on the committee due to long-term unpaid full levies for gas heating (including 10% simple interest for each year):

Mrs. Lorna Zelenzuk

Mr. Steve Luxmoore

Mr. Moses Levitt (he also held one proxy vote for another owner)

Mr. Peter Yeend

Mr. Peter Friede

Mr. Stan Pogorelsky

Mr. Upali Aranwela

When proper count of financial owners is taken into account, SP52948 Annual General Meeting in 2014 failed to comply with SSMA 1996 and was, therefore, void and invalid.

- At the meeting, when asked about competitive tenders, committee member Mr. John Ward claimed they had seven bids for the strata management contract but he was unable to produce any evidence of it. Since 2014, no-one has ever seen copies of alleged bids for strata management contract. In addition, the agenda for the meeting did not contain any details of strata management contract, or their proposed costs to manage the complex.

- BCS Strata Management hid information that Pica Group (parent company of BCS Strata Management) provided secret cash advance to SP52948 in amount of \$20,745.50 (GST inclusive) on 21 August 2014, which owners corporation secretly repaid via invoice dated 22 September 2014 six months later on 23 March 2015:

**PRUDENTIAL INVESTMENT COMPANY OF AUSTRALIA PTY LTD**

A.B.N 84 004 266 817  
LOCKED BAG 22, HAYMARKET NSW 1238  
Telephone: 1300 883 227 Fax: 02 9212 6269

**TAX INVOICE**



STRATA PLAN 52948 – Macquarie Gardens

Invoice No: 948

Date: 22/09/2014

Debtor Id: SP52948

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Description	Exclusive GST	GST	Amount
REPAYMENT FOR CASH ADVANCE TO PICA FOR SP52948 – 21/08/14	\$18,859.55	\$1,885.95	\$20,745.50
<b>Total Amount Due:</b>	<b>\$18,859.55</b>	<b>\$1,885.95</b>	<b>\$20,745.50</b>

Your Plan(s)/Lot(s): NSW 52948 - Ref 496594

Creditor Name:  (Partial or full name)

Cheque Date From: May 19 2013 To: May 19 2015

Cred. Code	Creditor Name	Doc. Ref. No.	Doc. Date	Doc. Total	Chq. Date	Mtd.	Cnl. Chq.	Date Presented	Invoice
26397		00000006	18/03/2015	180.00	26/03/2015	Bank Direct Debit	N	26/03/2015	
90906	PRUDENTIAL INVESTMENT CO AUST	948	16/03/2015	20745.50	25/03/2015	Bank Direct Debit	N	25/03/2015	
69661	W & M GORDON	56315	10/03/2015	1450.00	24/03/2015	Bank Direct Debit	N	24/03/2015	
69574	G & L CLEANING SERVICES	4365	02/03/2015	88.00	24/03/2015	Bank Direct Debit	N	24/03/2015	
68671	HOWARD WEST - BUILDER	1154	07/03/2015	781.00	24/03/2015	Bank Direct Debit	N	24/03/2015	
48608	TUNED TO PERFECTION PTY LTD	8059	11/03/2015	143.00	24/03/2015	Bank Direct Debit	N	24/03/2015	
39528	LOCK STOCK & BARREL	10891	19/01/2015	154.00	24/03/2015	Bank Direct Debit	N	24/03/2015	
13559	PALMERS GLASS & CARPENTRY	00044461	13/03/2015	374.00	24/03/2015	Bank Direct Debit	N	24/03/2015	
6138	ALLGATE AUTOMATION PTY LTD	62805	03/03/2015	220.00	24/03/2015	Bank Direct Debit	N	24/03/2015	
96206	J & E GORE	52948315	09/03/2015	150.66	20/03/2015	Mailing House	N	26/03/2015	

- Letter from BCS Strata Management delaying Annual General Meeting on 24 October 2014, allegedly due to tenders for strata and building management contracts:

24<sup>th</sup> October 2014

All Owners  
1 – 15 Fontenoy Road  
Macquarie Park NSW 2113

Dear Sir/Madam,

**RE: STRATA PLAN NO. 52948 – 1-15 FONTENOY RD, MACQUARIE PARK**

We are the strata managing agents for the above mentioned strata scheme.

Please be advised that the Scheduling of the Annual General Meeting of the Scheme has been deferred. The deferral has been to allow proper time for the sourcing and evaluating competitive quotes for 1) Building Management / Caretaking, and 2) Strata Managing Agency, as well as dealing with another un-related matter.

The date for the Annual General Meeting has not been set at the time of writing, but is expected to be set very soon. The Notice and Agenda will be issued to all Owners when the date for the AGM has been set.

The levies for the forthcoming year have not been resolved, as they normally would have been by this time. Both the value and timing of the Levies which would have been due in November 2014 will be determined during the Annual General Meeting, with allowance of time for Owners to make the payment of the first levy..

Yours faithfully  
**BCS STRATA MANAGEMENT - EPPING**

Russell Young  
**Portfolio Manager**

- In agenda for the meeting, Chairperson Mr. Bruce Copland stated that Extraordinary General Meeting would be organised to approve the following contract:

The SF plan has focussed on stable levies to build a reserve over a long term. There are, however, some specific recurrent issues in certain units which have not been able to be repaired with what is considered a reasonable degree of permanency, despite various repairs being carried out on builder's advice. As a result an independent professional building consultant has been asked to advise how to treat the particular problems that keep reappearing in the same particular lots. The issues may have a common cause but the solution is not readily apparent and until the EC are appraised of what is required it is impossible to determine the remedial action required or the costs applicable. Owners will appreciate that it is not in their interest to list particular lots in the reports which experience the problems. Owners can rely on the EC directing the MA to take appropriate action (e.g. roofing repair) as soon as the solutions are available.

Certain contracts (e.g. caretaking, roofing and painting) are for very large sums of money. In the circumstances and to allow for commercial negotiation in confidence and without disclosing the budgets available to suppliers it is expected that an Extraordinary General Meeting ("EGM") will be required to ratify the following contracts which will be entered into by the EC / MA subject to that ratification.

- Appointment of Managing Agent (minimum two years)
- Appointment of principal contractor for Caretaking etc. (minimum of three years).
- Roofing repairs (if not urgent)
- Painting of exterior of towers (to commence in F2015)

Such meeting to ratify alleged contracts never happened.

- Neither the agenda for the Annual General Meeting, nor the actual meeting on 26 November 2014 presented a copy of the Auditor's report, which was common non-compliance with laws in SP52948 (and continued when Waratah Strata Management took office on 1 February 2017):

#### **REPORT NUMBERS SUBJECT TO AUDIT**

This report has been written before our accounts have been audited and there is the possibility that precise actual amounts referred to in this report may vary slightly from those that appear in the final audited accounts. Any material change will be reported at the AGM.

#### **ENFORCED CHANGE OF AUDITOR**

The owners at the AGM in October 2013 voted to appoint Bamfield and Co to be the auditor for the 2014 financial year, however that accounting firm merged during the past year with Hayes Knight (NSW) Pty Ltd, and for this reason it was deemed appropriate to have that the successor firm carry out the audit as it is understood the same audit partner will supervise and sign off on the audit.

#### **RELIANCE ON THE MA FOR ACCOUNTING**

The annual accounts are prepared by the MA and are independently audited. Adjustments to align income and expenditure on an accrual basis are done by the MA for all levies and major utility costs and fixed contracts. All amounts in the accounts for income and expenditure exclude GST as this is paid to or recovered from government quarterly. The fidelity insurance cover protects against the unlikely case of improper actions of any employee of the MA.

To ensure that accounts are reliable the EC and auditor receive a management representation letter covering all the major areas of accounting responsibilities carried out by the MA. This is always issued at the time of the audit and therefore has not yet been received for the current year.

- Extracts from SP52948 Minutes of Annual General Meeting on 26 November 2014, without any competitive tenders for strata and building management contracts. The meeting also prevented Office of Legal Services Commissioner to investigate fraudulent actions by Solicitor Adrian Mueller:

by virtue of their status as financial or otherwise. The Chairperson advised that all Lots were financial with the exception of Lots; 38, 43, 54, 86, 99, 110, 144, 145, 163, 169, 173, 183, 192, 197, 199, 203, and 206. The Chairperson declared a quorum had been formed.

- MOTION 1:** That the minutes of the last general meeting, held 8<sup>th</sup> January 2014, be approved. – **Carried.**
- MOTION 2:** That the attached audited financial statements be confirmed. – **Carried.**
- MOTION 3:** That Hayes Knight (NSW) Pty Ltd be appointed as auditor for the year to 31<sup>st</sup> August 2015 – **Carried.**
- MOTION 4:** That, in accordance with section 27(1) of the *Strata Schemes Management Act 1996* (Act):
- (a) BCS Strata Management Pty Limited trading as Body Corporate Services be appointed as strata managing agent of Strata Scheme No. 52948 for a minimum period of two years commencing 1 December 2014;
  - (b) the Owners Corporation delegate to the Agent all of the functions of:

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- i. the Owners Corporation (other than those listed in section 28(3) of the Act); and
  - ii. its chairperson, treasurer, secretary and Executive Committee, necessary to enable the Agent to carry out the 'agreed services' and the 'additional services' as defined in the written agreement, a copy of which was attached to the notice of the meeting at which this resolution was passed (Agreement);
- (c) the delegation to the Agent is to be subject to the conditions and limitations in the Agreement; and
  - (d) the Owners Corporation represented by any two members of the Executive Committee execute the Agreement to give effect to this appointment and delegation; and
  - (e) authority be given for the common seal of the Owners Corporation to be affixed to the Agreement in accordance with Section 238 of the Act. – **Carried.**

- MOTION 18:** That the Owners Corporation by **SPECIAL RESOLUTION** pursuant to Section 47 of the Strata Schemes Management Act 1996, amend the Special bylaw 13 entitled "Sharing of water and gas costs" by inserting in section 2 of that bylaw the words

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**"except for gas connections charges until all lots in the towers are also subject to a separate connection charge for gas" after the words "or connection charges"– Carried.**

- MOTION 19:** That the Owners Corporation ratify the treatment of gas rebates carried out by the Managing Agent since the introduction of the bylaw and in particular the reimbursement of gas connection charges consistent with practice since the inception of the scheme. Such ratification does not extend to any duplicate rebates which are to be re-invoiced to the lot owners concerned. – **Carried.**

- MOTION 38:** To authorise Office of Legal Services Commissioner to conduct their investigation in regards to processional misconduct of Solicitor Mr. Adrian Mueller.
- **Defeated.**

- Solicitor Adrian Mueller was accessory to creation of four versions of Standard Costs Agreement in CTTT case SCS 12/32675, of which three were falsified:

**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 \_\_\_\_\_

*At S lhalh* 16 July 2012

Solicitor \_\_\_\_\_ Date \_\_\_\_\_

**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 \_\_\_\_\_

*At S lhalh* 16 July 2012

Solicitor \_\_\_\_\_ Date \_\_\_\_\_

**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: \_\_\_\_\_

Client \_\_\_\_\_ Date *25. 7. 2012*

*At S lhalh* 16 July 2012

Solicitor \_\_\_\_\_ Date \_\_\_\_\_

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

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

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

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

Signed: \_\_\_\_\_

Client *Paul Banoob* Date *17/7/12*

*At S lhalh* 16 July 2012

Solicitor \_\_\_\_\_ Date \_\_\_\_\_

On 4 July 2012, owners corporation had no funds to pay \$14,056.90 which was approved by 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).

BCS Strata Management, in full co-operation with committee members and Solicitor Adrian Mueller, made four insurance claims for non-existent "Defence of Lot 3" whilst Solicitor Adrian Mueller illegally represented SP52948 in CTTT cases SCS 12/32675 and 12/50460:

- \$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

... totalling: \$24,919.31.

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