

# Brief evidence of Solicitor Adrian Mueller involvement in fraudulent activities in CTTT case SCS 12/50460

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

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

Submitted evidence confirms that Solicitor Adrian Mueller illegally represented SP52948 in CTTT case SCS 12/50460 and continued to act to protect own interests and interest of members of SP52948 committee and strata managers at BCS Strata Management (lost contract with strata plan SP52948 in 2016 thanks to Lot 158 efforts and education of owners and investors) and Waratah Strata Management (since 1 February 2017).

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

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

Justice McCallum publicly stated:

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

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

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

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

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

NCAT NSW Civil Tribunal Ongoing Problems

4.

## **Repetitive efforts by BCS Strata Management and Waratah Strata Management to prevent access to SP52948 documents, as instructed by Solicitor Adrian Mueller**

BCS Strata Management and Solicitor Adrian Mueller preventing access to SP52948 strata documents in November 2012  
BCS Strata Management and Solicitor Adrian Mueller preventing access to SP52948 strata documents on 5 March 2013  
BCS Strata Management and Solicitor Adrian Mueller preventing access to SP52948 strata documents on 8 March 2013  
BCS Strata Management and Solicitor Adrian Mueller preventing access to SP52948 strata documents on 17 October 2013

BCS Strata Management and Solicitor Adrian Mueller preventing access to SP52948 strata documents on 14 November 2014

BCS Strata Management preventing access to SP52948 strata documents on 18 December 2015

Waratah Strata Management preventing access to SP52948 strata documents on 13 June 2017

Waratah Strata Management preventing access to SP52948 strata documents on 31 May 2019

Waratah Strata Management preventing access to SP52948 strata documents on 20 September 2019

Waratah Strata Management and Solicitor Adrian Mueller preventing access to SP52948 strata documents on 14 November 2019 (letter sent to O'Brien Criminal & Civil Solicitors)  
Waratah Strata Management and Solicitor Adrian Mueller preventing access to SP52948 strata documents on 8 June 2022

5.

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

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

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

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

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

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

That the accused did an act or made an omission,

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

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

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

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

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

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

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

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

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

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

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

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


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


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

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

under duress (direct threats).

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

From: [redacted] 

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

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

Send Later

Dear Senior Deputy Registrar and Manager of Costs Assessment,

Many thanks for the reply.

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

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

Thank you nevertheless.

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

Regards,

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

Good Afternoon

Thank you for your email.

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

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

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

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

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



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

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

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

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

## 2 FINANCIAL REPORT

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

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

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

10. False statements are a very serious offense in their own right. Deliberate lying in a Statutory Declaration is punishable by up to five years in prison, according to the NSW Oaths Act. Former judge Marcus Einfeld served two years in prison for knowingly making a false statement under oath and for attempting to pervert the course of justice. The case stemmed from the improbable catalyst of a false statutory declaration over a \$77.00 speeding fine.
11. Professional misconduct and misappropriation of SP52948 common funds by Solicitor Adrian Mueller in CTTT case SCS 12/50460 is closely related to his actions in CTTT case SCS 12/32675. In both of them, he acted without approval of owners corporation.

Therefore, lot of evidence for CTTT case SCS 12/50460 is found in case SCS 12/32675.

12. Apart from falsely claiming that he legally represented SP52948, Solicitor Adrian Mueller coerced BCS Strata Management to make secret insurance policy change and then make four claims against it for his alleged work without owners having any information about it.

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

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

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

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

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

New South Wales / ACT		Victoria / Tasmania		Queensland		Western Australia		South Australia		THE SPECIALISTS IN STRATA & COMMUNITY TITLE INSURANCE	
1 Northcreek Street Millers Point 2061 PO Box 507, Millers Point 1565 Phone: 1300 361 263 Fax: 1300 361 269 info_nsw@chu.com.au		Level 30, 459 Collins Street Melbourne 3000 Phone: 03 8695 4000 Fax: 03 8620 0666 info_vic@chu.com.au		6 Floor, 445 Upper Edward Street Spring Hill 4000 PO Box 255, Spring Hill 4004 Phone: 07 3832 4880 Fax: 07 3832 0367 info_qld@chu.com.au		1050 Hay Street West Perth 6005 PO Box 646, West Perth 6872 Phone: 08 9322 1722 Fax: 08 9481 0017 info_wa@chu.com.au		Ground Floor 208 Greenhill Road Eastwood 5063 Phone: 08 8394 0444 Fax: 08 8394 0445 info_sa@chu.com.au		CHU Underwriting Agencies Pty Ltd ABN 18 001 580 070 AFS Licence No: 243261 www.chu.com.au	

**Advice to payee**  
683467

GALLAGHER BROKING SERVICES  
PO BOX 6007  
NORTH SYDNEY, NSW 2060

03 SEP 2012

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

Description of Claim: CTTT DEFENCE LOT 3 ; Pol No.NNR836665  
THE OWNERS -SP 52948 31/09/12

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

New South Wales / ACT		Victoria / Tasmania		Queensland		Western Australia		South Australia		THE SPECIALISTS IN STRATA & COMMUNITY TITLE INSURANCE	
1 Northcreek Street Millers Point 2061 PO Box 507, Millers Point 1565 Phone: 1300 361 263 Fax: 1300 361 269 info_nsw@chu.com.au		Level 30, 459 Collins Street Melbourne 3000 Phone: 03 8695 4000 Fax: 03 8620 0666 info_vic@chu.com.au		6 Floor, 445 Upper Edward Street Spring Hill 4000 PO Box 255, Spring Hill 4004 Phone: 07 3832 4880 Fax: 07 3832 0367 info_qld@chu.com.au		1050 Hay Street West Perth 6005 PO Box 646, West Perth 6872 Phone: 08 9322 1722 Fax: 08 9481 0017 info_wa@chu.com.au		Ground Floor 208 Greenhill Road Eastwood 5063 Phone: 08 8394 0444 Fax: 08 8394 0445 info_sa@chu.com.au		CHU Underwriting Agencies Pty Ltd ABN 18 001 580 070 AFS Licence No: 243261 www.chu.com.au	

**Advice to payee**  
701965

GALLAGHER BROKING SERVICES  
PO BOX 6007  
NORTH SYDNEY, NSW 2060

11 DEC 2012

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

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

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

New South Wales / ACT		Victoria / Tasmania		Queensland		Western Australia		South Australia		THE SPECIALISTS IN STRATA & COMMUNITY TITLE INSURANCE	
1 Northcreek Street Millers Point 2061 PO Box 507, Millers Point 1565 Phone: 1300 361 263 Fax: 1300 361 269 info_nsw@chu.com.au		Level 30, 459 Collins Street Melbourne 3000 Phone: 03 8695 4000 Fax: 03 8620 0666 info_vic@chu.com.au		6 Floor, 445 Upper Edward Street Spring Hill 4000 PO Box 255, Spring Hill 4004 Phone: 07 3832 4880 Fax: 07 3832 0367 info_qld@chu.com.au		1050 Hay Street West Perth 6005 PO Box 646, West Perth 6872 Phone: 08 9322 1722 Fax: 08 9481 0017 info_wa@chu.com.au		Ground Floor 208 Greenhill Road Eastwood 5063 Phone: 08 8394 0444 Fax: 08 8394 0445 info_sa@chu.com.au		CHU Underwriting Agencies Pty Ltd ABN 18 001 580 070 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

New South Wales / ACT		Victoria / Tasmania		Queensland		Western Australia		South Australia		THE SPECIALISTS IN STRATA & COMMUNITY TITLE INSURANCE	
1 Northcreek Street Millers Point 2061 PO Box 507, Millers Point 1565 Phone: 1300 361 263 Fax: 1300 361 269 info_nsw@chu.com.au		Level 30, 459 Collins Street Melbourne 3000 Phone: 03 8695 4000 Fax: 03 8620 0666 info_vic@chu.com.au		6 Floor, 445 Upper Edward Street Spring Hill 4000 PO Box 255, Spring Hill 4004 Phone: 07 3832 4880 Fax: 07 3832 0367 info_qld@chu.com.au		1050 Hay Street West Perth 6005 PO Box 646, West Perth 6872 Phone: 08 9322 1722 Fax: 08 9481 0017 info_wa@chu.com.au		Ground Floor 208 Greenhill Road Eastwood 5063 Phone: 08 8394 0444 Fax: 08 8394 0445 info_sa@chu.com.au		CHU Underwriting Agencies Pty Ltd ABN 18 001 580 070 AFS Licence No: 243261 www.chu.com.au	

**Advice to payee**  
732417

GALLAGHER BROKING SERVICES  
PO BOX 6007  
NORTH SYDNEY, NSW 2060

06 JUN 2013

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

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

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

SP52948 repayed \$8,800.00 to CHU Insurance, even though committee members who were active in period from 2012 to 2017 (with special emphasis on Mr. Moses Levitt, Mr. Stan Pogorelsky, Mr. Jeffery Wang, and Mrs. Maureen McDonald) had knowledge that all four insurance claims were fraudulent:

**From:** Robert Crosbie  
**Sent:** Thursday, 23 March 2017 2:28 PM  
**To:** 'Duncan Stuart'  
**Subject:** RE: to sm Re: OC 52948 re CHU refund re LDX claim ref NH201212589 [29583]

Duncan,

We advise this issue was discussed at a committee meeting held last week and the committee have approved the refund of the \$8,800 to CHU. A cheque will be processed with our creditor payments early next week.

Regards,

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

Pay \$8,800  
to CHU

13. Based on evidence that SP52948 Annual General Meeting in 2012 was flawed and non-compliant with strata laws, Lot 158 requested that CTTT stay aside all decisions on 10 October 2012:



<b>From:</b>	SP52948 owner
<b>To:</b>	Peter Bone BCS Strata Management, Thomas Karolewski
<b>Subject:</b>	OFFICIAL REQUEST FOR MEDIATION AND INFORMATION: SCS File 12/50450 and 12/50460
<b>Date:</b>	10/10/12, 10:17 pm

Hello,

Last week, I submitted an Interim Order to CTTT to enforce certain actions that are missing for AGM 2012. I had to expedite the process because if I had started with Department of Fair Trading, it would have taken months... We do not need more delays.

Today, two new CTTT files were opened:

SCS 12/50450

SCS 12/50460

By law, CTTT is unable to prevent the AGM from taking place next week, but they can certainly take action AFTER it.

The Adjudicators requested that I "attempt" to mediate with you and the executive committee (which is a fruitless effort, but to satisfy the formalities I will do it) and provide more evidence to them by 23rd of October 2012.

To summarize, here are my recent email attempts that you failed to acknowledge and respond to (you serve the owners corporation in dual role as a Secretary of the Executive Committee and the Managing Agent):

3rd of October 2012 at 14:49

RE: UPDATED: SP 52948 - Annual General Meeting Motions by DB (This was CC-ed to CTTT)

3rd of October 2012 at 15:18 RE: UPDATED 2: SP 52948 - Annual General Meeting Motions by DB

5th of October 2012 at 13:21 RE: SP52948 - Annual General Meeting 2012 Comments on 5 Oct 2012

Nevertheless, I will REPEAT my requests, as per NSW Strata Management Act 1996 and the Australian Taxation Ruling No. IT 2505.

I enclose herewith the document that was used for Interim Order last week (faxcoversheet-Appeal-5Oct2012.doc).

The requests listed in that file need to be responded to by the executive committee and the managing agent in WRITTEN FORM by Tuesday, 16th of October 2012.

Your responses, or lack of them, will be documented and sent to CTTT before the due date on 23rd of October 2012.

In another development, the CTTT today again reminded Respondents about non-compliance in regards to evidence submission.


Finally, I enclose herewith a letter that was delivered in all letterboxes this evening.

It is always good to have evidence of all attempts to clean the business affairs.

- [CTTT-File-SCS-12-32675-Non-Compliance-Documents-from-Respondents-9Oct2012.pdf](#)
- [CTTT-File-SCS-12-50460-Interim-Order-Dismissed-until-more-evidence-and-mediation-attempted-again-10Sep2012.pdf](#)
- [faxcoversheet-Appeal-5Oct2012.doc](#)
- [SP52948-letterbox-10Oct2012-v3.doc](#)

BCS Strata Management ignored the concerns.

14. CTTT dismissed request for interim orders in case SCS 12/50460 until mediation was attempted on 10 September 2012:

CONSUMER, TRADER & TENANCY TRIBUNAL	
158 / 1-15 Fontenoy Road MACQUARIE PARK NSW 2113	File No: SCS 12/50460 (Quote in all enquiries)
<p><b>Application to the Tribunal concerning 1-15 Fontenoy Road MACQUARIE PARK NSW 2113 Australia – SP52948</b></p>	
<p>On 5/10/12 your Application for an Order was received by the Registrar. The application will not be referred to an Adjudicator or the Tribunal until you supply further information regarding mediation.</p>	
<p>Pursuant to Section 125 of the Strata Schemes Management Act 1996 the Registrar must not accept an application unless mediation has been attempted or mediation is inappropriate in the circumstances. If mediation has been attempted, documentary evidence of the mediation must be provided with the application. The mediation attempt must relate to the issues raised in your current application</p>	
<p>If the above information is not received on or before 23/10/12 your application may be referred to an Adjudicator or the Tribunal and may be dismissed.</p>	
<p>Should you require any further information you may contact the NSW Fair Trading on 13 32 20 or the Registry of the Consumer, Trader and Tenancy Tribunal.</p>	
<p> <b>S. Patel</b> for the Registrar 09/10/12</p>	

15. SP52948 committee confirmation that Solicitor Adrian Mueller was involved in AGM 2012 preparation on 25 September 2012:



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

Paul/Peter

Subject to any

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

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

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

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

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

16. Signed agreement by Solicitor Adrian Mueller at CTTT Hearing in case SCS 12/32675 on 17 October 2012, committing to provide missing strata files to Lot 158:

Agreement

This agreement is made on 17 October 2012

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

And: [REDACTED] ("DB")

Whereas:

A. DB is an owner of a lot in Strata Plan No. 52948 and alleges that the OC has not provided to him or permitted him to inspect certain financial records of the OC (allegation)

B. The OC denies the allegation

C. The OC nevertheless is prepared to provide to DB certain financial records of the OC on a without admission basis to resolve the allegation.

Agreement

1. The OC will provide to DB by post within 14 days such of the financial records of the OC known as an "Expense Transaction Report" and a "Cash Book Payments Report" from and including the period 2008 to date as exist.

Signed: AShell DB U  
OC by its solicitor

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

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

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

Regards

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

18. Solicitor Adrian Mueller was made aware of CTTT case SCS 12/50460 on 19 October 2012 and submission about his false statements at Hearing in CTTT case SCS 12/32675:

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

**From:** [REDACTED]

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

**To:** Adrian Mueller <[REDACTED]>

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

Hello,

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

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

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

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

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

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

Sincerely,

BCS Strata Management and Solicitor Adrian Mueller ignored the message.

19. Solicitor Adrian Mueller was firstly engaged in Fair Trading NSW mediation case SM12/1537JR on 4 January 2013, without Standard Costs Agreement or authorisation of owners corporation at any legally-convened meeting.

Chairperson of the committee Mr. Bruce Copland made suggestion how to incur excessive costs to Lot 158, and also stated that BCS Strata Management should engage separate legal advice and not use Sp52948 funds for it:

**Subject:** RE: NSW Fair Trading - mediation - SP 52948

**From:** Bruce Copland <[REDACTED]>

**Date:** 4/1/13, 10:55 am

**To:** 'Adrian Mueller' <[REDACTED]>, Paul Banoob <[REDACTED]>

**CC:** "Peter Bone (PeterB@bcms.com.au)" <PeterB@bcms.com.au>, John Ward <[REDACTED]>

Dear all,

I think we should put [REDACTED] to the test and have him provide all of the folders  
in duplicate to us, before any EC meeting can be called - we cannot possibly consider  
whether there is any validity in his claims or potential to mediate (unlikely) based on  
the claim in his statement he has lodged folders with CTTT. Surely he must make the  
full application available to us.

It will be very important to determine in advance whether this is simply regurgitation  
of issues already tested. It is an immediate defence regarding the AGM for 2010 that  
the OC has not yet held a further GM at which the minutes would be ratified.

Finally I believe that this matter has now separated into two parts - one being an  
attack on the MA and it may be important to ensure that Raine & Horne have independent  
legal advice as it is not the job of the OC to defend the actions of the MA.

Bruce Copland  
Chairman

-----Original Message-----

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

Sent: Friday, 4 January 2013 10:45 AM

To: 'Adrian Mueller'

Cc: Bruce Copland; Paul Banoob

Subject: FW: NSW Fair Trading - mediation - SP 52948

Good morning Gents

Please see attached file from OFT Mediation Services Unit.

Kind regards

20. Solicitor Adrian Mueller continued engagement in Fair Trading NSW mediation case SM12/1537JR on 24 January 2013, without Standard Costs Agreement or authorisation of owners corporation at any legally-convened meeting. Chairperson of the committee Mr. Bruce Copland again gave his strong opinion:

From: Peter Bone [mailto:PeterB@bcms.com.au]  
Sent: Thursday, January 24, 2013 11:30 AM  
To: Bruce Copland  
Cc: 'Adrian Mueller' [mailto:AdrianMueller@bcms.com.au]; Paul Banoob  
Subject: SP 52948 - Mediation

Good morning Bruce

Jim Robertson of the Mediation Unit has just phoned me re DB's application for mediation.

He has set aside Thursday of next week (31/01/13) for this mediation, and is seeking confirmation that the Owners Corporation will / will not be attending.

Jim has also suggested that if the EC is of the opinion that mediation will not resolve the issues raised by DB, then the OC probably should not attend mediation.

**Subject:** Re: SP 52948 - Mediation  
**From:** Bruce Copland <Bruce.Copland@bcms.com.au>  
**Date:** 24/1/13, 12:24 pm  
**To:** "PeterB@bcms.com.au" <PeterB@bcms.com.au>  
**CC:** "AdrianMueller@bcms.com.au" <AdrianMueller@bcms.com.au>  
"Paul.Banoob@bcms.com.au" <Paul.Banoob@bcms.com.au>

We must be give the so called 2000 pages to read. This is vital. Looking through half a dozen emails is not our problem. He has to be ordered to provide a copy of the file.

I am not in Sydney and cannot call a meeting or review files remotely.

This is intolerable abuse of the process.

Regards,

Bruce

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

21. Lot 158 confirmed intention to attend Fair Trading NSW mediation case SM12/1537JR on 27 January 2013 and stating that this was a serious sacrifice due to his work committments:

**Subject:** FINAL CONFIRMATION: [redacted] attending Mediation SM12/1537JR on 31 January 2013  
**From:** [redacted]  
**Date:** 27/1/13, 9:22 pm  
**To:** jim.robertson@bcms.com.au

Dear Mr Robertson,

To avoid any possibility of mistakes and misunderstandings, I would again like to confirm my attendance of the Mediation in File SM12/1537JR

Date: 31 January 2013  
Time: 10:00 EST (10am)  
Location: Level 13, 175 Castlereagh Street, Sydney

Since I have not received any cancellations or other notices, I assume that we will proceed as planned. It is not easy for me to go away from work so I have to plan my hours very carefully.

It is a significant effort for me to dedicate time to attend the mediation in the middle of a business week, so I hope the other party (members of the Executive Committee, of which majority are retirees) and the Strata Manager will show respect and show up at the mediation on time.

I am always prepared for open talks.

If, for some reason, a postponement is announced in next three days, I need to emphasize that I am not available most of February 2013 and the best time for me to attend another DFT mediation would be the last week of February (and that would be another sacrifice on my side due to some other commitments on my side) or the first week of March 2013.

22. SP52948 declined to attend Fair Trading NSW mediation case SM12/1537JR on 20 February 2013:

**Subject:** Fwd: Scan Data from FX-36D292  
**From:** Jim Robertson [mailto:Jim.Robertson@bcms.com.au]  
**Date:** 20/2/13, 10:45 am  
**To:** [redacted]

Dear [redacted]

Please find attached a copy of my letter advising the decline by the Owners Corporation of your application for mediation.

The original plus CTTT information has been mailed to your address.

Fair Trading NSW decision:



Fair  
Trading

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

158/1-15 Fontenoy Road  
MACQUARIE PARK NSW 2113

Phone: 9641-6566

jim.robertson

20 February, 2013

Dear [REDACTED]

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

I refer to your application for mediation concerning issues relating to the management of the scheme.

The *Strata Schemes Management Act 1996* sets out specific provisions for the resolution of disputes, the first step being mediation. If mediation is declined by the respondent party, adjudication of the dispute is the next step in the dispute resolution process.

In this instance, mediation has been declined by the Owners Corporation.

If the issues you described in your mediation application remain unresolved, you have the option to apply for an order from a Strata Schemes Adjudicator. If you choose this option, I suggest you contact the Fair Trading Information Centre on 13 32 20 to ensure the issues you have raised are matters that can be resolved by an Adjudicator's order.

Should you decide to proceed with an application for an Adjudicator's order, you will be required to indicate on your application form that mediation has been attempted, by attaching a copy of this letter to the application.

I have enclosed information about the resolution of strata disputes and an application form.

Yours sincerely

Jim Robertson  
Mediator  
for the Deputy Commissioner for Fair Trading

23. Solicitor Adrian Mueller was engaged in reopening Fair Trading NSW mediation case SM12/1537JR on 22 February 2013, incurring costs to owners corporation without legal reasons. This was initiated through Chairperson of the Committee Mr. Bruce Copland's secret efforts to cause unnecessary financial losses to Lot 158, whilst allowing unfinancial owners to be on the committee (Mr. Moses Levitt and Mr. Stan Pogorelsky):

**Subject:** RE: SP 52948 - Request for Mediation  
**From:** Peter Bone </O=PICA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=PETERBONE>  
**Date:** 22/2/13, 10:00 am  
**To:** 'Bruce Copland' <[REDACTED]>  
**CC:** Paul Banoob <[REDACTED]>

Good morning Bruce

Paul and I have discussed this matter further, and I have now drafted the attached letter to Mediation Services Unit. This letter has been reviewed and edited by Adrian Mueller.

Could you please review this letter and advise if you are happy for this letter to be forwarded to Mediation Services Unit.

Regards

From: Bruce Copland <[REDACTED]>  
Sent: Thursday, 21 February 2013 9:46 AM  
To: Peter Bone; [esaulits@...](mailto:esaulits@...); [jeffrey@...](mailto:jeffrey@...); [warda@...](mailto:warda@...); [mcdonald151@...](mailto:mcdonald151@...); [zellew@...](mailto:zellew@...); [hirsch25@...](mailto:hirsch25@...); [pogor@...](mailto:pogor@...)  
Cc: 'Adrian Mueller'; Paul Banoob  
Subject: RE: SP 52948 - Request for Mediation

Peter,

I am afraid you have let the applicant off the hook. He should have been given an order to provide the material. This is a gross abuse of process and an intolerable imposition on the Owners Corporation.

How do you know what is in the material?

While it is unlikely that mediation would serve any purpose it is important that you have understood that you will now require to obtain all 2000 pages from CTTT.

This is not a desirable outcome.

Bruce

24. SP52948 committee members received information about reopened Fair Trading NSW mediation case SM12/1537JR on 5 March 2013. Solicitor Adrian Mueller continue to be engaged without approval at any committee meeting or general meeting, and without Standard Costs Agreement:



**Subject:** SP 52948 - Mediation  
**From:** Peter Bone </O=PICA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=PETERBONE>  
**Date:** 5/3/13, 12:27 pm  
**To:** 'bcopland'; 'esaulits'; 'jeffrey'; 'jward'; 'mcdonald151'; 'zellev'; 'pogo'; 'hirsch25'

Good afternoon Committee

Please find attached for your information, correspondence from Mediation Services Unit re-opening the file on the request for Mediation made by Mr Baljevic of unit 158.

25. Lot 158 complaint to Fair Trading NSW for reopened mediation case SM12/1537JR on 5 March 2013, with warning that owners corporation was not even aware of the Fair Trading an CTTT cases and that Solicitor Adrian Mueller was illegally represeing owners corporation. Strata Manager Mr. Peter Bone was notified on the same day as well:

**Subject:** Re: Mediation file re-opened - letter attached Strata Plan 52948 SM12/1537JR  
**From:**   
**Date:** 5/3/13, 2:48 pm  
**To:** Rebecca Gleeson <

Dear Ms Gleeson,

It was nice to make your acquaintance on the phone today.

Thank you for the update.

I am not surprised by this tactics by the Respondent as it is the third time they are delaying the DFT cases. Each time, they would eventually decline to attend.

So far, they:

- \* Refused to attend mediation in DFT SM11/1348DR,
- \* Refused to attend mediation in DFT SM10/1230PK,
- \* Refused to comply with CTTT Orders in case SCS 12/32675 three times,

To prove how dishonest and unethical the Respondent is show these facts:

- \* No owner received any notification that CTTT SCS 12/50460 was opened and pending action;
- \* No owner received any notification that CTTT SCS 12/32675 was reopened and pending Hearing (just today I completed my final version of the submission);
- \* No owner received any information that they failed to comply with CTTT orders four times;
- \* No owner received any information that this DFT case (SM12/1537R) was opened and pending action.

a) About the current DFT case.

CTTT cases SCS 12/50450 and 50460 were opened on 5 October 2012 to issue interim order to prevent the AGM 2012 due to serious mismanagement and procedural errors (the AGM was on 17 October 2012).

Straight away, the Strata Manager received notice about them but failed to acknowledge it. That is typical from him, because he is not even fully licenses and he is also instructed by the Solicitor, who (for the record) has no legal rights to represent the owners corporation and was not engaged properly). Owners yet do not know that the legal advice cost them \$18,000.00 so far but that will be announced soon.

b) Instead of running a proper AGM, it was a disaster.

Lot of false statements, financial errors and other issues... Word criminal is too gentle to describe for what happened.

c) Then, the CTTT asked me to attempt a mediation. Hence your case.

I notified the Strata Manager about it as soon as the case was opened with the DFT in December 2012. He decided not to respond.

d) On 16 and 18 January 2013 I provided main documents to Mr Jim Robertson.

Most of other evidence are just copies of the documents I actually paid for when visiting the Strata Office myself, so the Respondent already have them.

e) On 20 February 2013, Mr Jim Robertson confirmed that the owners corporation declined to attend.

f) In the meantime, I requested four orders to summons three members of the EC and the Strata Manager (last week). They will be required to produce certain documents and answers in regards to SCS 12/32675 but lot of their answers will apply to SCS 12/50460 too.

g) In the email sent to Strata Manager Mr Peter Bone, subject "RE: SCS 12/50460 status on 15 Dec 2012", I clearly listed number of issues and provided six attachments that I had given to CTTT.

Those attachments were given to Mr Jim Robertson too.

Not a single word of response was received.

h) In the email sent to Strata Manager Mr Peter Bone, subject "RE: SCS 12/50460 status on 21 Dec 2012", I notified them about the folders and evidence submitted to CTTT.

The email contained two attachments, of which one were the CTTT orders.

i) In essence, the Executive Committee and the Strata Manager rely on secrecy and lack of owners' interest and skills to follow up (by and large, we have very passive owners corporation that can be taken for a ride on any given day).

j) Therefore, it is fact that the Executive Committee and the Strata Manager already have lot of documents in regards to DFT SM12/1537JR.

Every photocopy of the financial and other documents that I submitted to CTTT is readily available at the Strata Agency.

They have never attempted to speak to me in person or via email. They know very well that I would like

to engage in talks with them.

In addition, it is important to state that the owners corporation did not approve any engagement of the Solicitor. The owners do not even know that two CTTT cases are opened at the moment: 12/32675 and 12/50460.

k) Like they did it to me in the past (provided absolutely no evidence or their responses have been poor for the last two years), they are welcome to do the same as I did:

Schedule a visit to CTTT and photocopy all folders. It will cost them 80 cents per each page.

I spent over \$7,000.00 of my own money on various document searches, DFT and CTTT fees.

or

m) If the Executive Committee and the Strata Manager still wish me to provide them with all evidence, then I can do it, upon receiving their money order for the time and effort to do it myself:

My hourly charge:	\$250.00
Photocopy and print per page:	\$0.80
Cost of Plastic folders and sleeves:	\$45.00

I need at least nine hours to organize the folders. Therefore, charges of around \$2,590.00 are imposed.

In conclusion, dear Ms Gleeson, I have to say that they are not forthcoming and have no intentions to conform to ethics and duty of care.

You are welcome to contact me at any time.

I am sorry that you have to get involved in this case.

If they decline to pay me for the copies, it will be assign that their main intention is to run my costs higher. I will not accept it and will request the DFT mediation be closed immediately so that we can proceed with the CTTT case SCS 12/50460.

Further delays are not an option and if that happens, I will insist that it be known that they are responsible for it.

Part of the email contains the following statements:

*... Therefore, it is fact that the Executive Committee and the Strata Manager already have lot of documents in regards to DFT SM12/1537JR. Every photocopy of the financial and other documents that I submitted to CTTT is readily available at the Strata Agency. They have never attempted to speak to me in person or via email. They know very well that I would like to engage in talks with them.*

*In addition, it is important to state that the owners corporation did not approve any engagement of the Solicitor. The owners do not even know that two CTTT cases are opened at the moment:*

*12/32675 and*

*12/50460*

26. After another anonymous death threat against Lot 158 on 26 February 2013 and deliberate prevention of access to strata files, (full details in evidence of Solicitor Adrian Mueller fraudulent activities in CTTT case SCS 12/32675)...

Solicitor Adrian Mueller wrote this letter to Fair Trading NSW on 6 March 2013, claiming that he legally represented SP52948, whilst refusing to attend the mediation for the second time:

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

Our Ref: AM:22012

6 March 2013

Mediation Services Unit  
Office of Fair Trading  
PO Box A805  
SYDNEY SOUTH NSW 1235

By email: [rebecca.gleeson](mailto:rebecca.gleeson@oftr.nsw.gov.au)

Dear Madam

RE: [REDACTED] AND SP52948  
FILE NO.: SM12/1537JR

I act for the Owners Corporation of Strata Plan No. 52948.

I have been asked to write to you about the application for mediation lodged by [REDACTED]

[REDACTED] mediation application refers to a number of documents. The executive committee of the owners corporation cannot assess whether it would be worthwhile participating in mediation until it receives copies of those documents. This is not an unreasonable position.

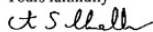
I note that you recently emailed the strata manager of the owners corporation, Peter Bone, and indicated that [REDACTED] had agreed to provide all of the documents referred to in the mediation application provided that the owners corporation paid his costs for preparing the documents which he says will be \$2,590. The owners corporation is not prepared to pay these costs and it should not have to.

As the applicant for mediation, [REDACTED] should be required to provide the other party to the mediation with a copy of all of the documents on which he intends to rely so that the owners corporation knows the nature of the dispute which is the subject of mediation, it can decide whether there is any merit in participating in mediation and, if there is, it can participate meaningfully in any mediation.

I would therefore be grateful if you would make it clear to [REDACTED] that he must provide the owners corporation with copies of the documents referred to in the mediation application (at his own cost) if the application is to be accepted by the Mediation Services Unit and in order for [REDACTED] to have met the requirements for attempting mediation under the *Strata Schemes Management Act 1996*.

I look forward to hearing from you shortly.

Yours faithfully

  
J.S. MUELLER & CO

27. Lot 158 second complaint to Fair Trading NSW for reopened mediation case SM12/1537JR on 7 March 2013:

**Subject:** Re: Strata Plan 52948 SM12/1537JR response from owners corporation attached  
**From:** db  
**Date:** 7/3/13, 20:38  
**To:** Rebecca Gleeson  
**Reply-to:** [REDACTED]

Dear Ms Gleeson,

Thank you for the update.

Their response lacks substance.

I reserve the final reply after the following information is provided to ensure procedural fairness:

a) The Respondent declined to provide evidence why they failed to respond to the DFT in written form by the due date on 16 January 2013 (oral messages are not a proof of delivery).

The urgent email from the Strata Manager Mr. Peter Bone to the Solicitor Mr. Adrian Mueller on 15 of January 2013 asking on direction what to do (although the DFT gave them the information on 4 January 2013) is a proof of their delayed and uncoordinated actions. I have the proof of that email and can submit it to the DFT at any time.

b) To verify the Solicitor's claim that they represent the owners corporation in this case, we must receive the copy of the contract between them and the Strata Plan 52948 (cost agreement and other schedules).

c) We must receive a copy of the minutes of the general meeting, or the officially-scheduled Executive Committee meeting, that approved the engagement of the legal advice at the owners corporation expense.

d) The Respondent must provide the Section of the SSMA 1996 which specifically requests that the owners corporation must receive the copies of the documents FREE OF CHARGE.

e) The Respondent must provide evidence why the same request did not apply both to me and them in the previous DFT and CTTT cases:

DFT SM11/1348DR  
DFT SM10/1230PK  
CTTT SCS 11/00711  
CTTT SCS 12/05845  
CTTT SCS 12/32675

In none of the previous cases the DFT or the Respondent requested these files free of charge.

Likewise, for all the copies of their responses so far, I had to pay for them myself.

If it is really free for all parties, then I demand the recovery of my funds spent of copying the documents so far (several thousand dollars). I can provide full evidence for all invoices.

The DFT Mediation form contains the following statement:

BEGIN QUOTE  
Only attach copies of documents relevant to the dispute. Please keep these to a minimum.  
END QUOTE

I have already fulfilled that request. It is also obvious that the DFT's jurisdiction is not to handle the voluminous cases, nor they can make decisions on behalf of any party in dispute.

The DFT web site is very clear about the mediation:

BEGIN QUOTE  
You will also need to bring any relevant plans, documents or photographs to the mediation session.  
END QUOTE

All evidence available points to the following summary:

Each party attending a mediation session is fully responsible for their own costs - which means that one party cannot be held liable for the costs of the other party, no matter what or who those costs might involve.

f) The Respondent failed to provide evidence why they did not act upon advance notice of CTTT cases SCS 12/50450 and 12/50460, which they received early in October, two weeks before the AGM 2012. They had ample opportunity to mediate at the internal meeting.

They also must provide evidence that they attempted to rectify the issues as reported in the SCS 12/50450

and 12/50460 at the AGM 2012 because they were aware of the them in advance.

Same applies to two official EC meetings and one special EC meeting since the AGM 2012 held on:

6 December 2012  
4 January 2013  
20 February 2013

g) The Respondent failed to provide acknowledgment that they received significant information about CTTT SCS 12/50460 during December 2012 (when information as provided to the Strata Manager), and January 2013 (when additional and significant information was provided to them via Mr. Jim Robertson).

As a side note, I do not believe that Mr. Jim Robertson made a wrong decision to close the DFT case. In all contacts with him, he presented himself as a skillful and knowledgeable member of your staff. It is difficult to envisage that he would make such a serious error of law. I would like and rightfully deserve to receive some explanation on this matter.

Of special importance was the following statement in part of the email:

... The Respondent declined to provide evidence why they failed to respond to the DFT in written form by the due date on 16 January 2013 (oral messages are not a proof of delivery).

The urgent email from the Strata Manager Mr. Peter Bone to the Solicitor Mr. Adrian Mueller on 15 of January 2013 asking on direction what to do (although the DFT gave them the information on 4 January 2013) is a proof of their delayed and uncoordinated actions. I have the proof of that email and can submit it to the DFT at any time.

...

Each party attending a mediation session is fully responsible for their own costs - which means that one party cannot be held liable for the costs of the other party, no matter what or who those costs might involve.

The Respondent failed to provide evidence why they did not act upon advance notice of CTTT cases SCS 12/50450 and 12/50460, which they received early in October, two weeks before the AGM 2012. They had ample opportunity to mediate at the internal meeting.

They also must provide evidence that they attempted to rectify the issues as reported in the SCS 12/50450 and 12/50460 at the AGM 2012 because they were aware of the them in advance.

Same applies to two official EC meetings and one special EC meeting since the AGM 2012 held on:

6 December 2012

4 January 2013

20 February 2013

The Respondent failed to provide acknowledgement that they received significant information about CTTT SCS 12/50460 during December 2012 (when information was provided to the Strata Manager), and January 2013 (when additional and significant information was provided to them via Mr. Jim Robertson).

28. Solicitor Adrian Mueller invoice 22012 dated 6 March 2013 confirm that he was involved in Fair Trading NSW mediation case SM12/1537JR since 21 February 2013 and charged owners corporation for such services. Of special importance is the fact that Solicitor did not charge for or list emails dated 4 and 24 January 2013, was actively involved in preventing access to strata files, and charged for some services on 26 February 2013 when Lot 158 received an anonymous death threat:

TIME BILLING SUMMARY				
Date	Description	Amount	GST	
30/01/13	Perusing emails from [redacted] requesting payment for consultancy services	\$44.00	\$4.40	
30/01/13	Perusing emails from [redacted] requesting performance of cleaning and other services	\$44.00	\$4.40	
30/01/13	Perusing draft email from strata manager to [redacted] requesting claims for payment for consultancy services	\$44.00	\$4.40	
30/01/13	Drawing email for strata manager to [redacted] rejecting the claim for payment for consultancy services	\$44.00	\$4.40	
04/02/13	Perusing emails from [redacted], chairman and strata manager concerning [redacted] request to inspect privileged documents	\$44.00	\$4.40	
04/02/13	Email to you providing advice on inspection of privileged documents by [redacted] and requirements of section 108 of Strata Schemes Management Act 1996	\$88.00	\$8.80	
14/02/13	Perusing email from [redacted] pressing request to inspect privileged records of owners corporation	\$44.00	\$4.40	
14/02/13	Perusing and responding to email from strata manager requesting further advice concerning [redacted] request to inspect privileged records of owners corporation	\$44.00	\$4.40	
21/02/13	Perusing email from strata manager advising of decision not to participate in mediation	\$44.00	\$4.40	
21/02/13	Perusing letter from mediator and email from chairman regarding decision not to participate in mediation	\$44.00	\$4.40	06/03/13 Letter to Mediation Services Unit requesting [redacted] to provide copies of mediation documents \$132.00 \$13.20
21/02/13	Perusing letters from Tribunal advising of [redacted] request for an extension of time to file submissions on costs application	\$44.00	\$4.40	06/03/13 Email to you advising of Tribunal's refusal to issue summonses and [redacted] request \$44.00 \$4.40
21/02/13	Perusing email from strata manager advising of decision not to participate in mediation	\$44.00	\$4.40	
21/02/13	Perusing letter from mediator and email from chairman regarding decision not to participate in mediation	\$44.00	\$4.40	
21/02/13	Perusing letters from Tribunal advising of [redacted] request for an extension of time to file submissions on costs application	\$44.00	\$4.40	
22/02/13	Perusing draft letter from strata manager to Mediation Services Unit	\$44.00	\$4.40	
22/02/13	Drawing amendments to letter from strata manager to Mediation Services Unit	\$132.00	\$13.20	
22/02/13	Perusing email from [redacted] requesting information about office bearers and water and gas rebates	\$44.00	\$4.40	
22/02/13	Email to you providing advice on [redacted] request for information about office bearers and water and gas rebates	\$44.00	\$4.40	
26/02/13	Perusing email from strata manager advising of application by [redacted] to issue summons for production of documents	\$44.00	\$4.40	
26/02/13	Email to strata manager providing advice in relation to summons for production	\$44.00	\$4.40	
27/02/13	Perusing notice from Tribunal advising of extensions made to timetable	\$44.00	\$4.40	
06/03/13	Perusing notice from Tribunal advising of amended directions in costs application and refusal to issue summons at request of [redacted]	\$44.00	\$4.40	
06/03/13	Perusing emails from strata manager and executive committee regarding [redacted] refusal to provide mediation documents	\$44.00	\$4.40	
Total			\$1,320.00	\$132.00

29. BCS Strata Management forged figures for legal costs and insurance claims in official six-monthly financial report for period from 1 September 2012 to 28 February 2013 for SP52948 stating that only \$1,316.19 was received in insurance



claims and legal fees were \$200.00 when one single invoice for Solicitor Adrian Mueller amounted to \$12,672.00 (plus GST) in his invoice on 15 November 2012 (cheque drawn and presented on 27 November 2012), confirmed by extract from BCS Strata Management website in March 2013.

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

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

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

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

#### LESS: EXPENDITURE:

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

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

#### LESS: EXPENDITURE:

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

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

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

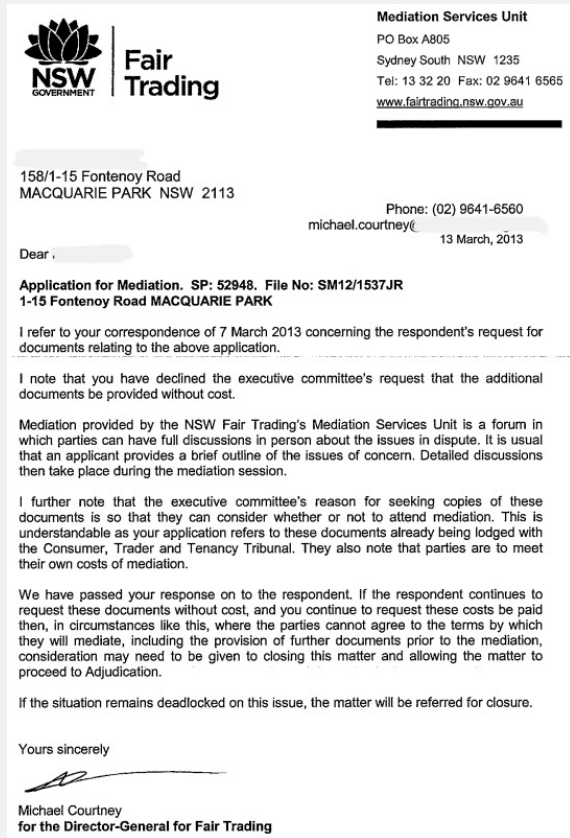
20<sup>th</sup> of August 2013, status of financial documents at BCS Strata Community website for SP52948. Note the amended six-monthly report Document ID 5304628 was available.

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

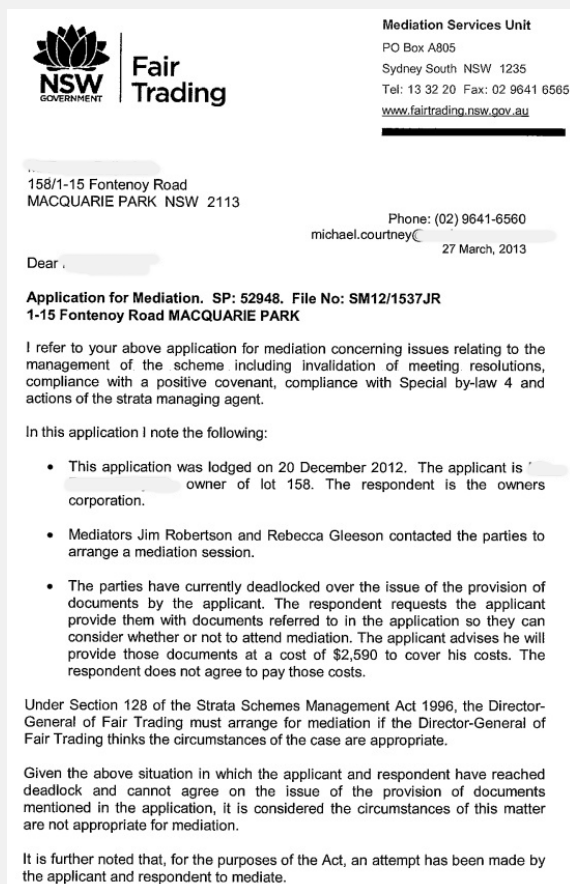
Just before the Annual General Meeting in October 2013, Raine & Horne Strata Sydney BCS removed the amended financials again to ensure success of the meeting in their favour Document ID 5304628 disappeared forever.

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

30. On 13 March 2013 Fair Trading NSW confirmed that each party meets their own costs in mediation case SM12/1537JR and that mediation is not supposed to deal with volume of files but brief outline of concerns:



31. On 27 March 2013 SP52948 committee refused to attend Fair Trading NSW mediation in case SM12/1537JR for the second time:



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

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

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

Dear all

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

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

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

I apologise for delay in advising of my view.

Bruce

Regards,

Bruce

Bruce Copland

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

Dear all,

Please find my updated vote, I misunderstood the form.

I am against both motions.

New form attached.

Cheers

JW

John G Ward

49/1-15 Fontenoy Road North Ryde 2113

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

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

VOTING PAPERS WERE RECEIVED FROM:

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

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

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

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

The Motion said:

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

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

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

35. On 15 April 2013 Solicitor Adrian Mueller provided these statement to Tribunal. At CTTT hearing on 15 April 2013, Solicitor Adrian Mueller said words to the effect of (Lot 158 has audio recording of the event):

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

*There's two documents:*

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

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

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

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

36. Straight after CTTT Hearing in case SCS 12/32675 on 15 April 2013, Solicitor Adrian Mueller sent urgent secret email to BCS Strata Management Mr. Paul Banoob, Mr. Peter Bone, and Chairperson of the committee Mr. Bruce Copland to produce documents related to his engagement in 2012 and requested that owners corporation organise urgent paper committee meeting to ratify his engagement (this secret email clearly confirmed that Solicitor Adrian Mueller had never received such documents before 15 April 2013):

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

Dear All,

I attach letter reporting on today's CTTT hearing.

I need you to immediately do the following:

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

Regards

Adrian Mueller

Solicitor

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

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

Hi all,

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

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

Any questions please contact me.

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

**From:** Bruce Copland [redacted]

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

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

<esaulits@redacted>, "jeffrey@redacted"

<mcdonald151@redacted>, "hirsch25@redacted"

"pogo@redacted"

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

Dear All,

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

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

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

Bruce

Extract from the transcript:

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



represent us at CTTT.

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

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

Bruce

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

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

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

Peter,

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

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

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

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

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

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

Good morning [redacted]

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

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

The legal action concerns the matters which you raise.

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

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

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

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

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

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

**Defeated"**

to read:

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

**Defeated"**

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

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

Misconstrued Motion suggested, on the balance of probabilities, that it meant Solicitor Adrian Mueller was not allowed to be engaged in Fair Trading NSW case SM12/1537JR although the case was already closed on 27 March 2013.

40. On 6 May 2013 Solicitor Adrian Mueller provided false statement to BCS Strata Management that that he had not been aware of CTTT case SCS 12/50460 until previous week:

**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  
Ancillote NSW 2205  
Australia  
DX 25315 Rockdale  
Tel: 02 9562 1296  
Fax: 02 9567 8551

Our Ref: AM-DR:2012  
Your Ref: Peter Bone

6 May 2013

The Secretary  
The Owners - Strata Plan No. 52948  
C/- Raine & Home Strata Sydney  
Level 2, 51 Rawson Street  
EPPING NSW 2121

Also by email: [peterb@bcms.com.au](mailto:peterb@bcms.com.au); [paul.banoob@bcms.com.au](mailto:paul.banoob@bcms.com.au)

Dear Secretary

**RE: APPLICATION TO STRATA SCHEMES ADJUDICATOR BY [REDACTED] (LOT 158)  
CONSUMER, TRADER AND TENANCY TRIBUNAL FILE NO. SCS 12/50460**

I have been advised by the Tribunal that [REDACTED] has lodged a further application against the owners corporation seeking a variety of orders from a strata schemes adjudicator.

It appears that [REDACTED] lodged the further application on 5 October 2012 but the Tribunal did not provide me with a copy of the application until I received last week the Tribunal's letter dated 24 April 2013.

I understand the delay is attributable to [REDACTED] delay in providing the Tribunal with evidence that mediation of the dispute which is the subject of the further application was attempted.

**I enclose:**

- Letter from Tribunal to owners corporation dated 24 April 2013.
- Application for an order by an adjudicator including two separate annexures to the application, one being a letter from [REDACTED] dated 25 February 2013, the other being a list of the orders [REDACTED] seeks in the adjudication.

I also received from the Tribunal two lever arch folders of documents submitted by [REDACTED] in support of his application. I would estimate that these folders contain about 1,000 pages of material.

*The Secretary*  
*The Owners - Strata Plan 52948*  
*6 May 2013*

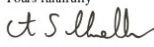
In the adjudication it appears that [REDACTED] applies for orders to, essentially, invalidate a number of resolutions and at least two by-laws passed by the owners corporation at previous meetings and to require the owners of lot 3 to comply with certain obligations that arise under Special By Law 4. [REDACTED] also applies to have his application referred by the adjudicator to the Tribunal on the basis that it is a complex case.

I enclose my firm's costs agreement and cost disclosure. These documents contain the terms of my firm's retainer to act for the owners corporation in relation to [REDACTED] further application to the adjudicator and information about my fees and charges (among other information).

If the owners corporation is prepared to appoint my firm to act for it in relation to [REDACTED] further application to the adjudicator, a motion to the following effect should be passed:

*That the owners corporation resolves pursuant to section 80D of the Strata Schemes Management Act 1996 to defend the application made by [REDACTED] (Lot 158) to the strata schemes adjudicator for orders against the owners corporation (CTTT File No. SCS 12/50460) and to engage JS Mueller & Co Solicitors for that purpose on the terms of that firm's costs agreement and costs disclosure dated 6 May 2013, a copy of which is attached to the notice of this meeting.*

You should circulate a copy of my costs agreement and costs disclosure to each owner and executive committee member within seven days.

Yours faithfully  
  
**J.S. MUELLER & CO**  
Encls.

*Per: Adrian Mueller*

Solicitor Adiran Mueller, unlike in CTTT case SCS 12/32675 gave clear instruction that all owners must receive a copy of his Standard Costs Agreement within seven days and that decision to engage him must be done at a meeting.

41. On 6 May 2013 Solicitor Adrian Mueller issued Standard Costs Agreement for CTTT SCS 12/50460
42. 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

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


Reference is made to correspondence received from the Applicant on 6 May 2013.

I draw your attention to Section 136 of the Strata Schemes Management Act 1996 (the Act) which outlines the obligation of the Owners Corporation's to display and give certain notices. Specifically, section 136(1) states that:

An Owners Corporation given a copy of an application for an order under this Chapter accompanied by the relevant notice must:

- immediately cause the application and notice or a copy of the application and notice to be prominently displayed on any notice board required to be maintained by or under the by-laws on some part of the common property, and
- keep the application and notice so displayed until the expiration of the time specified in the notice for the making of submissions, and
- immediately serve a copy of the application and notice on each person whose name appears on the strata roll.

I have attached a copy of section 136 for your convenience.

  
**R Kombar**  
Deputy Registrar  
07/05/13

Solicitor Adrian Mueller did not notify CTTT that he was not authorised to represent owners corporation in the Fair Trading NSW mediation case SM12/1537JR and CTTT case SCS 12/50460.

43. On 10 May 2013 Lot 158 issued request to Solicitor Adrian Mueller to return private property and reimburse owners corporation:

From: [REDACTED]  
Sent: Friday, 10 May 2013 1:46 PM  
To: Adrian Mueller  
Cc: Peter Bone; Paul Banoob  
Subject: OFFICIAL REQUEST on 10 May 2013: Immediate return of private property and reimbursement of Invoice on 6 March 2013

Hello,

a) As agreed at the CTTT Hearing today, since you are not a properly endorsed legal representative of the SP52948 in File SCS 12/50460, and based on the fact that you kept falsely claiming it to the DFT and the CTTT until 6 May 2013 (when I forced you to issue a new contract), you are instructed to return two folders with my evidence in SCS 12/50460 by registered post or in person immediately.

This request has to be taken in context that I will allow seven days (five working days from today) for my files to be returned (by the end of business hours on 17 May 2013).

You are currently holding these PRIVATE documents illegally and without authority.

I will allow service by post as per NSW Interpretation Act 1897 Section 76:

(b) in Australia or in an external Territory-is, unless evidence sufficient to raise doubt is adduced to the contrary, taken to have been effected on the fourth working day after the letter was posted...

Silence will be taken as agreement with my request.

b) The Strata Manager, the EC and you, must immediately review the invoice in amount of \$1,452.00 that you submitted to the owners corporation on 6 March 2013 because almost all expenses in it were related to the CTTT File SCS 12/50460 (and corresponding DFT SM12/1537JR), and some even private financial matters between Raine

& Horne Strata and myself (which you cannot claim from owners corporation).

A quick reimbursement of the illegal expenses is required immediately as the funds of the owners corporation have been abused without approval.

c) You will disclose to owners corporation and myself all costs (current estimate above \$25,000.00) from the Standard Cost Agreement of \$11,550.00 as "approved" by the EC members on 16 July 2012.

d) Finally, you are requested to provide evidence why you failed to notify the owners corporation about all expenses and substantial changes to the Cost Agreement as per Legal Profession Act 2004:

If the Solicitor becomes 'aware' of a substantial 'change' in anything 'included in' prior disclosure, there is a duty to update the disclosure under Section 316

It is actually covered by Section 309(1)(b)(iv) (and Section 316) of the Legal Profession Act 2004.

That has not happened in our complex.

This was also listed in your Standard Cost Agreement but not adopted by the Solicitor.

This clause imposes on the Solicitor an obligation to inform the client of any substantial changes to anything (as soon as practicable after he becomes aware of the changes) required to be disclosed to the client.

#### Transcript of the email:

*As agreed at the CTTT Hearing today, since you are not a properly endorsed legal representative of the SP52948 in File SCS 12/50460, and based on the fact that you kept falsely claiming it to the DFT and the CTTT until 6 May 2013 (when I forced you to issue a new contract), you are instructed to return two folders with my evidence in SCS 12/50460 by registered post or in person immediately.*

*This request has to be taken in context that I will allow seven days (five working days from today) for my files to be returned (by the end of business hours on 17 May 2013).*

*You are currently holding these PRIVATE documents illegally and without authority.*

*I will allow service by post as per NSW Interpretation Act 1897 Section 76:*

*(b) in Australia or in an external Territory-is, unless evidence sufficient to raise doubt is adduced to the contrary, taken to have been effected on the fourth working day after the letter was posted...*

*Silence will be taken as agreement with my request.*

*b) The Strata Manager, the EC and you, must immediately review the invoice in amount of \$1,452.00 that you submitted to the owners corporation on 6 March 2013 because almost all expenses in it were related to the CTTT File SCS 12/50460 (and corresponding DFT SM12/1537JR), and some even private financial matters between Raine & Horne Strata and myself (which you cannot claim from owners corporation).*

*A quick reimbursement of the illegal expenses is required immediately as the funds of the owners corporation have been abused without approval.*

*c) You will disclose to owners corporation and myself all costs (current estimate above \$25,000.00) from the Standard Cost Agreement of \$11,550.00 as "approved" by the EC members on 16 July 2012.*

*d) Finally, you are requested to provide evidence why you failed to notify the owners corporation about all expenses and substantial changes to the Cost Agreement as per Legal Profession Act 2004:*

*If the Solicitor becomes 'aware' of a substantial 'change' in anything 'included in' prior disclosure, there is a duty to update the disclosure under Section 316*

*It is actually covered by Section 309(1)(b)(iv) (and Section 316) of the Legal Profession Act 2004.*

*That has not happened in our complex.*

*This was also listed in your Standard Cost Agreement but not adopted by the Solicitor.*

*This clause imposes on the Solicitor an obligation to inform the client of any substantial changes to anything (as soon as practicable after he becomes aware of the changes) required to be disclosed to the client.*

44. After Solicitor Adrian Mueller refusal to comply, Lot 158 sent an updated response on 14 May 2013:

**Subject:** RE: OFFICIAL REQUEST on 10 May 2013: Immediate return of private property and reimbursement of Invoice on 6 March 2013

**From:** [REDACTED]

**Date:** 14/5/13, 7:15 pm

**To:** Adrian Mueller

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

Hello,

Frankly, I do not care what you say nor you make any sense. What you say is worthless.

CTTT and the DFT were notified this week.

I am your client - I am part of the owners corporation and also hold several proxies vested in me.

In addition (you are not allowed to know the details yet), many owners are receiving my reports and number of them are getting ready to deal with you and the Strata Agency when the time is right.

So, you are holding the documents illegally, you represented your self in a false manner to the DFT and the CTTT, you charged expenses in the case SCS 12/50460 you were/are not even authorized to claim, and you refuse to disclose full expenses which you HAD to provide to the owners corporation long ago.

I am not sure what you think will happen next.

Maybe you think that people have to "fear" you!? That does not work on me.

45. Lot 158 sent another updated request to Solicitor Adrian Mueller on 1 June 2013:

**Subject:** RE: OFFICIAL REQUEST on 10 May 2013: Immediate return of private property and reimbursement of Invoice on 6 March 2013

**From:** [REDACTED]

**Date:** 1/6/13, 2:52 pm

**To:** Adrian Mueller

**CC:** "bruce@esaulits@mcDonald151@pogo@zellev@jward@bcopland@Peter Bone <PeterB@bcms.com.au>, Paul Banoob

Hello,

Based on yet another evidence that you do not have authority to represent the owners corporation in SCS 12/50460 (nor you ever had authority to work in SCS 12/32675 and SCS 12/05845 through properly convened EC or general meetings), it is your obligation to return the folders that are in your custody ILLEGALLY.

You have deceived the DFT and the CTTT by claiming so and you have provided false statements about it to the owners corporation.

In addition, it is your duty and the EC's obligation to force you to refund the fees you overcharged and wrongly claimed.

Based on calls to the Strata Manager and emails to me, close to 30 owners are now firm in their opinion that your services are not required in our complex and do not want any CTTT cases (providing an EGM is convened shortly). For details, ask the EC and the Strata Manager.

In addition, you are requested to provide me with the estimate and the cost agreement for any work in relation to your reply to the CTTT by 4 June 2013 which, apparently, the EC members approved at the meeting on 22 May 2013.

Without it, I will request that any submission by you must be dismissed due to lack of procedures as per Legal Profession Act 2004 and the SSMA 1996 (and will remind the CTTT that they must provide the evidence before they make such a decision). The owners should have received your estimate and the cost agreement for any work above \$750.00 before the EC meeting in May. You certainly cannot provide any valuable submission to the CTTT without reading some of my large evidence firstly. Based on simple fact that you charge \$44.00 for even half-page emails, you cannot do any productive work for the owners corporation without charging well above \$750.00,

or hiding these costs for some future invoice to avoid scrutiny now. So, the claim that your "fee" would be below \$750.00 would be challenged.

I allow you till Monday afternoon to respond. With, or without your response, this email will be submitted to the CTTT on Tuesday, 4 June 2013.

The important extract from the email:

*Based on yet another evidence that you do not have authority to represent the owners corporation in SCS 12/50460 (nor you ever had authority to work in SCS 12/32675 and SCS 12/05845 through properly convened EC or general meetings), it is your obligation to return the folders that are in your custody ILLEGALLY.*



*You have deceived the DFT and the CTTT by claiming so and you have provided false statements about it to the owners corporation.*

*In addition, it is your duty and the EC's obligation to force you to refund the fees you overcharged and wrongly claimed.*

*Based on calls to the Strata Manager and emails to me, close to 30 owners are now firm in their opinion that your services are not required in our complex and do not want any CTTT cases (providing an EGM is convened shortly). For details, ask the EC and the Strata Manager.*

46. On 17 and 20 May 2013 Lot 158 sent warning to BCS Strata Management with owners' votes against Solicitor Adrian Mueller's engagement. Extract from the email:

**Subject:** UPDATE: VOTES AGAINST THE ENGAGEMENT OF SOLICITOR AND NOTIFICATION FOR OWNERS ABOUT PENDING CTTT CASE SCS 12/50460: 20 May 2013

**From:** Lot 158

**Date:** 20/5/13, 16:17

**To:** Peter Bone

**CC:** Paul Banoob, Elizabeth Saulits, Maureen McDonald, Stan Pogorelsky, Moses Levitt, John Ward, Bruce Copland

Hello,

An important update for owners to share. Please distribute to all owners.

Of around 120 owners I contacted, only two did not want to get involved or receive any messages.

Over the last several days, number of owners expressed their unhappiness and unwillingness to spend money on legal fees, which is in line with what I want and always offered.

They called me in person, or sent emails. With some of them I had very decent, open, and long phone discussions and there was no disagreement in our views: open talks are required and all parties must be given a chance to talk and provide evidence. I am certainly ready at any time.

Among those people who DO NOT WANT ANY SOLICITOR INVOLVEMENT is the owner of Lot 122 and here is his message today:

Please note that I am against legal procedures as I believe that legal costs will escalate to at least 100k. We need to call for a special meeting. I am willing to mediate among parties. Please convey my message to all parties. Best Regards Rabbi YL Cohen u122

The same sentiment is shared by some other owners who do not wish to be publicly disclosed as yet.

Therefore, we have a proper mediation process: extraordinary general meeting without any external involvement and costs within next four weeks (the agenda of the general meeting is required 7 days advance notice plus three clear-days for letters by post - in total at least 10-11 working days advance notice with the full agenda that includes the Motions presented by me three times in 2013).

If all parties agree to it, I am happy to stop or delay the CTTT process as I can control it in full.

Today and tomorrow, other owners can send their private messages to the Strata Manager for consideration at the EC meeting this Wednesday evening. Taking some action is appropriate as this is everybody's chance to decide against further waste of money on legal costs without any valid reason.

On Fri, 2013-05-17 at 19:16 +1000, Lot 158 wrote:

Last week, I documented why the Solicitor was not required. The report was sent to the members of the EC and yourself. Nobody attempted to respond to me.

Earlier today, an agenda for the EC meeting on 22 May 2013 was received.

BY THE PROXY VOTES VESTED IN ME AND MYSELF, YOU ARE INSTRUCTED TO RECORD THAT WE DO NOT APPROVE ENGAGEMENT OF ANY SOLICITOR AS UNNECESSARY, COSTLY, AND UNAPPROVED AT THE GENERAL MEETING.

\* You were supposed to organize the general meeting, where, if conducted properly, all issues could be discussed and voted without any involvement of the Solicitor would be utterly unnecessary.

\* You were supposed to seek one or preferably two more proposals for cost agreement from other Solicitors - you FAILED TO DO IT,

\* You were supposed to request the Solicitor to reimburse the owners corporation for over-inflated and illegal Solicitor's expenses that I documented last week. You FAILED TO DO IT.

Some of the owners' emails requesting that Solicitor Adrian Muelelr not be engaged:

SP52948 owners against legal costs ignored by executive commitete and BCS Strata Management in May 2013

BCS Strata Management, commitete members, and Solicitor Adrian Muelelr ignored these requests.

47. On 24 May 2013 BCS Strata Management wrote to CTTT, asking for extension of time to submit response in case SCS 12/50460, and confirming that engagement of Solicitor would require general meeting, which he did not apply to CTTT case SCS 12/32576 (double standards):



24<sup>th</sup> May 2013

Consumer, Trader & Tenancy Tribunal  
GPO Box 4005  
SYDNEY NSW 2001

**By Facsimile: 1300 135 247**

Dear Sir/Madam,

Re: **STRATA PLAN 52948 – 1-15 FONTENOY ROAD MACQUARIE PARK**  
**CTTT FILE NUMBER: SCS 12/50460**

We are the Strata Managing Agents for the above property.

We refer to your recent correspondence regarding the above Application and seek an extension of time for the preparation of a submission in relation to this application.

The Executive Committee for Strata Plan 52948 convened a Committee Meeting on 22<sup>nd</sup> May 2013. This meeting reviewed the application made by [REDACTED]. In addition to the application, as provided by CTTT, the Owners Corporation is in receipt of many hundreds of pages of 'supporting material' lodged by [REDACTED].

In order to properly assess this application and supporting material, the Executive Committee considers it necessary to engage legal representation.

To incur this legal expense, the Owners Corporation needs to convene an Extraordinary General Meeting and if approved, engage a lawyer. The lawyer will then require time to review the application and supporting material, and prepare a submission on behalf of the Owners Corporation.

Accordingly we kindly request an extension of time to prepare and submit a submission relating to this matter.

Yours faithfully  
**Raine & Horne Strata – Sydney**



Peter Bone  
Portfolio Manager

48. On 3 June 2013 BCS Strata Management wrote to single SP52948 committee member (Chairperson Mr. Bruce Copland), explaining their attempt to delay their responses in case SCS 12/50460 until October 2013.

Evidence in CTTT cases SCS 12/32675 and SCS 12/50460 clearly demonstrate that in most events only selected members of the committee were making decisions (Mr. Bruce Copland was an undisputed leader) and that majority of committee members were never consulted:

**Subject:** RE: SP52948 actions from ECM minutes.  
**From:** Peter Bone </O=PICA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=PETERBONE>  
**Date:** 3/6/13, 9:20 am  
**To:** 'Bruce Copland' <[REDACTED]>  
**CC:** Paul Banoob <[REDACTED]>

Good morning Bruce

Please find attached a copy of the letter I sent to CTTT requesting an extension of time for submissions.

I received a telephone call from CTTT last week wanting to know how much of an extension we required.

I advised the lady I spoke to that we had over a thousand pages of material submitted by the applicant to review and that we needed to engage the services of a lawyer to represent the Owners Corporation, and that the AGM for the scheme is scheduled for October of this year.

The lady I spoke to advised that CTTT would not grant an extension of time that long. I advised that we would then need to convene an EGM, with all of the required notification times, etc.

She advised that she would pass this on to her superior who will make the final decision.

Will advise when I hear further from the CTTT.

Regards

From: Bruce Copland <[REDACTED]>  
Sent: Monday, 3 June 2013 8:42 AM  
To: Peter Bone  
Cc: Paul Banoob  
Subject: SP52948 actions from ECM minutes.

Peter,

Can you please urgently confirm that you wrote to CTTT and requested an extension to file a defence?

I had asked for a copy of the letter but have been overseas for a week and apologise if that has come through unnoticed but I do not appear to have received any thing.

In the absence of an approved request we would be obliged to file a defense tomorrow. This would be considered urgent and in those circumstances the committee had approved the minimum work necessary to achieve this.

I cannot reply to CTTT on my own but I will make a submission as chairman of the last AGM at which all the motions were passed.

Regards

Bruce

49. On 27 August 2013 CTTT reached decision in case SCS 12/50460, dismissing request to deal with invalid Annual General meeting 2012, in spite of v luminous evidence. CTTT accepted false statements by BCS Strata Management and committee members:

## CONSUMER, TRADER & TENANCY TRIBUNAL NOTICE OF ORDER

The Secretary, Owners Corporation SP  
52948  
C/-Raine and Horne Epping  
Floor 1 Block D  
240 Beecroft Road  
EPPING NSW 2121

File No: SCS 12/50460  
(Quote in all enquiries)

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

On 27-AUG-2013, the following orders were made:

1. The application for orders under the Strata Schemes Management Act 1996 (SSMA) to 'prevent the AGM' is dismissed;
2. The application for orders under SSMA s153 is dismissed.
3. The application for orders under SSMA s160 and 169 are dismissed.

Please see attached orders and reasons for decision.

50. On 2 September 2013 Chairperson of the committee Mr. Bruce Copland confirmed to BCS Strata Management that Solicitor Adrian Mueller did not need to be notified about outcome of CTTT case SCS 12/50460 because he had not been engaged to legally represent owners corporation (forgetting that Solicitor was charging owners corporation for this case since September 2012):

From Bruce Copland [REDACTED] ☆

Subject RE: SP 52948 - CTTT Notice of Order

To Peter Bone <PeterB@bcms.com.au> ☆

Cc Paul Banoob [REDACTED] ☆, jeffrey@ [REDACTED] ☆, jward@ [REDACTED] ☆, mcdonald151@ [REDACTED] ☆, zellew@ [REDACTED] ☆, hirsch25@ [REDACTED] ☆, pogo@ [REDACTED] ☆

2/9/13, 2:46 pm

Peter,

This is excellent news and in fact does not need to go to Adrian as he did not represent us on this application.

I will consider in greater detail what if anything we say to owners. Will you please hold off mailing this out to all owners until we finalise the ECM minutes tonight - I will have them back to you tomorrow.

Bruce,

-----Original Message-----

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

Sent: Monday, 2 September 2013 2:32 PM

To: Bruce Copland; jeffrey@ [REDACTED]; jward@ [REDACTED]; mcdonald151@ [REDACTED]; zellew@ [REDACTED]; hirsch25@ [REDACTED]; pogo@ [REDACTED]

Cc: Paul Banoob

Subject: SP 52948 - CTTT Notice of Order

Good afternoon Committee

Please find attached for your information a copy of a recent CTTT Notice of Order dismissing the latest application of [REDACTED]

We will forward a copy of this Notice to all owners for their information, and will also forward a copy to Adrian Mueller of J S Mueller & Co.

We are still awaiting a decision on the scheme's application for costs, and will forward this when it becomes available.

Regards

Peter Bone

Raine & Horne Strata-Sydney

Level 2, 51 Rawson Street Epping NSW 2121

51. On 9 September 2013 Chairperson of the committee Mr. Bruce Copland instructed BCS Strata Management to make Lot 158 document search as inconvenient as possible, and at the same time trying to hide evidence of his own involvement:

From: Bruce Copland [REDACTED]  
Sent: Thursday, 5 September 2013 7:09 AM  
To: Paul Banoob  
Cc: John Ward  
Subject: The continuing [REDACTED] saga

Paul,

**I consider that correspondence between myself and Raine & Horne Strata is personal and not part of the records of the SP52948.**

**I am of the firm view that all correspondence and material related to any CTTT claim lodged by [REDACTED] automatically becomes privileged and that by taking the action he has locked himself out of access to any material.**

I am overseas till 29 September.

**I know that there are a number of miscodings in this years accounts and that is will be well into September before al, journals for water gas and electricity adjustments, journals for levies in advance are posted.**

I would like to review the accounts in detail as soon as I get back and have you arrange for auditor on Monday 7<sup>th</sup> October. The committee plans to meet on previous Wednesday informally to review accounts and budget.

**I sincerely hope CTTT issue the costs claim decision soon.**

**Given the likely lengthy list of motions from [REDACTED] may I suggest that an early draft of the AGM notice be prepared following the pattern and order of motions that we used last year.**

**I intend to put one motion in before all of [REDACTED] motions to move that all motions that are merely repetitious of prior year AGM submissions by [REDACTED] are rejected as time wasting and vexatious.**

I will produce an Annual Report covering the last year for inclusion with the accounts, budget and AGM notices and update all owners on the real state of affairs.

**I trust you can make his inspection as inconvenient as possible!.**

**There will be no motion supported by the committee to change the Managing Agent and in my view your contract does not require to be tendered this year as we were satisfied last year that a careful test was done.**

Bruce

52. Outcome on 17 October 2013 - Lot 158 was yet again refused access to files for CTTT SCS 12/32675, SCS 12/50450, SCS 12/50460, and Annual General Meeting (AGM) in spite of the fact that Lot 158 was legally valid committee member:

Extract from the report:

Subject: SUMMARY: SP52948 Document Viewing Results on 17 October 2013  
From: SP52948 Owner  
**To: Strata Manager Peter Bone <PeterB@bcms.com.au>**  
**Cc: Branch Manager Paul Banoob <[REDACTED]>**, EC members  
Date: Thu, 17 Oct 2013 20:48:22 +1100

Status of my visit to BCS Strata Management office today.

a) The following financial documents with accompanying notes by Bamfield and Co. Accountants:

Debtor Financial Status  
Cash Book Receipts  
Cash Book Payments  
Bank Reconciliation  
Detailed Expenses (Transaction Records) for Admin and Sinking Funds  
Cash Management  
Statement of Financial Position

**Results after visit to BCS Strata Management office: Files obtained. In addition, copies of some very crucial files and evidence obtained too. More details at the AGM 2013.**

b) Invoice, payment and insurance claim (if applicable) for

EC member in townhouse - Toilet Bowl Replacement

**Results after visit to BCS Strata Management office: By Strata Manager's written statement, the insurance claim and the payment to the owner did not occur. To be verified independently.**

c) Copies of last year's tender, quotes from strata agencies, and the document by the Executive Committee summarizing why was BCS Strata Management selected for the Strata Manager's contract. If they are not "available" to the Strata Manager for "commercial reasons" it must be available to each and every owner through separate methods and the members of the committee can pass them on. Whether I get them in letterbox, or via some other method, it does not matter. The Strata Manager Mr. Peter Bone is an official Treasurer and the Secretary of the EC since the AGM 2012 and has duty to provide them.

**Results after visit to BCS Strata Management office: The EC and the Strata Manager failed to provide any evidence of the tender for the management contract and quotes from alternative providers, which is in non-compliance with the SSMA 1996 Section 108. There is no proof that the Executive Committee is telling the truth about the properly organized tender last year. Because of other issues with the Strata Manager's contract uncovered today, this question will be asked at the AGM 2013.**

d) Public liability insurance by owner of Lot 3 as per Special By-Law 4 for FY 2014. Currently, the owner allegedly has two insurances in amount of \$20,000,000.00:

The GIO insurance policy issued on 18 October 2012 (one day after the AGM 2012 and the CTTT Hearing) and "backdated" to 13 September 2012 (this one would have expired) The APIA insurance policy issued for period starting 16 November 2012 (one month after the AGM 2012). The documents for all years before the AGM 2012 are still missing, and officially confirmed at the document viewing on 16 September 2013, which means that the Strata Manager FAILED to uphold the By-Laws of SP52948 in this regard.

**Results after visit to BCS Strata Management office: No dispute that the public liability insurance was not enforced as per Special By-Law 4 in any year prior to October 2012. The insurance details for next year are pending owner's update in next three weeks.**

53. BCS Strata Management secretly engaged Solicitor Adrian Mueller to manipulate and misquote Lot 158's Motions at AGM 2014.

**Subject:** SP 52948 - 2014 AGM - Motions Proposed by [REDACTED] (22012)  
**From:** Adrian Mueller  
**Date:** 28/10/14, 10:48 am  
**To:** "russell.young@bcssm.com.au" <russell.young@bcssm.com.au>  
**CC:** "bcopland@[REDACTED]",  
"paul.banoob@[REDACTED]",  
"billy.cheung@[REDACTED]"

Dear Russell

I attach:

1. Letter of advice.
2. Motions submitted by [REDACTED] (marked up).
3. Tax invoice.

Thank you for your instructions.

Regards

Adrian Mueller  
Solicitor

This was confirmed in secret email from Mr. Bruce Copland to Mr. John Ward, and two strata managers at BCS Strata Management (Mr. Paul Banoob and Mr. Peter Bone) on 29 September 2012. As usual, only selected members of the committee were involved in these decisions:



From: Bruce Copland  
Sent: Saturday, 29 September 2012 11:46 PM  
To: Peter Bone; Paul Banoob  
Cc: John Ward  
Subject: SP52948 AGM Motions received from [REDACTED] added to AGM notice  
Attachments: SP 52948 AGM notice October 2012.doc

Peter/Paul

**I have listed these 10 motions from DB separately after the election of the committee. I think we are entitled to leave out the accompanying documents in view of its further libellous and defamatory commentary.**

**I have attempted to remove the editorial comments in the motions themselves and present these motions as motions that are capable of being resolved (however unlikely that is).**

**A number of these motions are disallowable by the chair for various reasons of unenforceability, illegality and placing constraints on owners that go beyond the law. Adrian advice as to the original form of these motions received on Friday was most useful. The key is of course having any appeal at CTTT dismissed before the meeting.**

**I will deal with the disallowance issues on the night.**

You may wish to review the motions to confirm that the substance has been included and follows the pattern of all other motions at the meeting.

I am not in Sydney on Monday, Tuesday and Wednesday and therefore am relying on you to distribute the AGM packs no later than postmark Tuesday.

I trust you both had a pleasant Spring Break.

I am available on mobile if required on Tuesday.

Regards

Bruce Copland

BCS Strata Management premeditated actions to prevent Motions from being listed in the agenda for the general meeting.

BCS Strata Management failed to notify owners about CTTT cases SCS 12/32675 and 12/50460 at general meeting on 17 October 2012. Extract from email:

<b>From:</b>	SP52948 owner
<b>To:</b>	Peter Bone BCS Strata Management
<b>Subject:</b>	SUMMARY: Case for AGM 2012 and CTTT File 12/50450 and 12/50460 - Why is strata insurance high in 2012
<b>Date:</b>	11/10/12, 10:36 pm

Hello,

For the executive committee, owners (if this is "allowed" to be given to them) and the CTTT.

In case we want to have some facts about why the strata insurance premium for many buildings has gone up so much in 2012...

Firstly, we have the same insurer as last year (QBE). The policy number is the same but it was hidden under different name in last year's AGM notice.

Secondly, only several parts of the policies for the complex increased (by exactly 5 per cent, see attachment).

Thirdly, some of the policies have been removed this year (could be higher risk to owners), and the deductibles have raised significantly.

Note that the new policy has increased a deductible for legal claims to \$10,000.00 and same applies to water damage (which we had several this year)! I know of two owners in Block A who suffered damage inside their lots (one of them got very upset and is now selling and leaving the complex; she had enough).

a) Until recently, strata unit owners were typically paying about one-third of the premium of stand-alone residences in the same area.

Historically, strata insurance policies have been underpriced when compared to the risks they cover. Many Bodies Corporate have been paying a third of the premiums paid on average for an equivalent stand-alone home insurance policy. (Refer to ICA Fact Sheet Oct 2011).

b) Strata unit properties often face similar or even greater risks than stand-alone residential properties and discounted premiums have proven unsustainable. Insurers are now pricing strata property insurance to reflect the risk of the area and the characteristics of the building.

c) After several years of natural disasters, the commercial reality is insurers must operate under a prudential and sustainable premium position if they are to continue providing insurance. Properties in many areas are now being risk-rated at sustainable levels, and in many cases the premiums remain lower for each unit than equivalent single dwellings.

d) Many strata properties carry a very high risk, and high repair costs, due to their location, age, design, features and construction methods.

Unlike standalone houses, strata properties often have expensive body corporate assets, such as common areas, underground car parks, lifts and pools that can be vulnerable and expensive to repair.

e) Other factors such as mandatory public liability provisions, claims history, maintenance issues and the way the building is used can also significantly increase the premium payable.

54. BCS Strata Management failed to notify owners about Solicitor Adrian Mueller's false statements to CTTT on 17 October 2012:



<b>From:</b>	SP52948 owner
<b>To:</b>	Peter Bone BCS Strata Management
<b>Subject:</b>	OFFICIAL REQUEST FOR MEDIATION AND INFORMATION: SCS File 12/50450 and 12/50460
<b>Date:</b>	17/10/12, 11:23 pm

Hello Peter,

I have asked this several times, but it seems that I need one more.

At the AGM 2012 tonight, the owner of lot 3 stated that he provided public liability insurance details for all years since 2003 to you. The documents are readily available in your office, according to the information given tonight.

I would also like to state that such documents were not provided to me, so this is the final request to do so.

I need copies of the insurance details that include no less than \$5,000,000.00 for public liability as per By-Law 4.

Please provide it.

Note that Adrian Mueller made a sworn statement this afternoon at CTTT that owners of Lot 3 were something like overseas and not available to attend. We now know that was not true. I am not trying to be picky, but that was a seriously wrong statement, because the Tribunal member and I agreed not to push it at this stage.

So, if you do not provide full copies of the insurance as per By-Law 4 for lot owner 3 since 2003 by Friday morning, I will notify the CTTT that the Solicitor made a false statement under oath and that the insurance details do not exist or are refused to be provided upon request. That part of the case can turn silly and nasty. I do not want it and you do not want it.

The simple solution is to make the insurance details available now.

## 55. Waratah Strata Management secretly engaged Solicitor Adrian Mueller to prevent Lot 158 from submitting Motions at AGM 2017:

\$3,500 + GST to provide legal advice to the owners corporation as to its options for restraining DB from publishing potentially defamatory material about strata committee members and others;

- \$1,750 + GST to peruse DB's proposed motions and to draw a letter to him to advise that his motions will not be included in the AGM agenda;
- \$1,750 + GST to review DB's correspondence and draft a letter to be sent to owners to refute DB's accusations on behalf of the owners corporation and strata committee.

My fee proposal assumes I will not be required to peruse any additional documents other than those you have sent me.

The strata committee and owners can view my credentials on our website [www.muellers.com.au](http://www.muellers.com.au).

I attach my costs agreement and disclosure which set out the terms of my retainer and contain more information about my fees and charges.

I look forward to receiving your instructions.

Regards

**Adrian Mueller**  
Partner I Solicitor

**J.S. MUELLER & CO**  
LAWYERS

J.S. Mueller & Co  
1<sup>st</sup> Floor  
240 Princes Highway  
Arncliffe NSW 2205  
DX 25315 ROCKDALE NSW  
T: (02) 9562 1266  
F: (02) 9567 8551  
W: [www.muellers.com.au](http://www.muellers.com.au)

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**From:** JSM Reception  
**Sent:** Monday, 3 July 2017 3:14 PM  
**To:** Richard Phillipps  
**Cc:** Adrian Mueller  
**Subject:** FW: SP 52948, 1-15 Fontenoy Road, Macquarie Park

---

**From:** Robert Crosbie  
**Sent:** Friday, 30 June 2017 3:08 PM  
**To:** Enquiries  
**Subject:** FW: SP 52948, 1-15 Fontenoy Road, Macquarie Park

Adrian,

We ask you to provide a fee proposal for the following matter.

As you may recall, the Owners Corporation has been having issues with the owner of Lot 158, (DB), over many years.

## 56. Solicitor Adrian Mueller provided advice how to ignore Lot 158's Motions for AGM on 23 August 2017 with details how to achieve it:

23 August 2017

158/1-15 Fontenoy Road  
MACQUARIE PARK NSW 2113

Dear Sir,

**Re: Request for Inclusion of Motions in Agenda of General Meeting**

We write as the strata managing agent of The Owners – Strata Plan No. 52948 at 1-15 Fontenoy Road, Macquarie Park.

We are writing in relation to your recent requests for a series of motions to be included in the agenda of the next general meeting of the owners corporation.

We regret to advise that your requests for those motions to be included in the agenda of the next general meeting generally do not comply with the strata legislation as a result of which the overwhelming majority of the material contained in your requests will not be included in the agenda of the next general meeting.

Yours faithfully

WARATAH STRATA MANAGEMENT

Solicitor Adrian Mueller suggested that strata manager sends letter to Lot 158 on the day of agenda being sent which would not give enough time for amended agenda, effectively excluding Lot 158's Motions:

The Secretary

The Owners - Strata Plan No. 52948

23 August 2017

necessary for any such letter to be sent by us to [redacted]. We have, therefore, drafted a letter for the strata managing agent of the owners corporation to send [redacted]. That letter merely states that the requests [redacted] has made for motions to be included in the agenda of the next general meeting generally do not comply with the strata legislation as a result of which the overwhelming majority of those motions will not be included in the agenda of the next general meeting. The owners corporation does not fall under any obligation to give [redacted] reasons for rejecting his motions as a result of which the letter we have drafted does not do so.

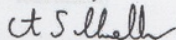
**3.6. Next Steps**

Once the owners corporation informs [redacted] that most of his motions will not be included in the agenda of the next general meeting, you should anticipate that [redacted] will object to that decision and, possibly, submit a revised request for the inclusion of motions in the meeting agenda. We therefore recommend that you inform [redacted] that his motions will not be included in the agenda of the next general meeting at the same time as the meeting agenda is served on owners.

Further, after the meeting is held, you should anticipate that [redacted] may take legal action against the owners corporation for refusing to include his motions in the agenda of the general meeting, and, therefore, the owners corporation will need to be able to justify its decision not to include those motions in the agenda, if necessary, before the NSW Civil and Administrative Tribunal.

We trust that our advice will prove helpful and we **attach** our memorandum of fees. Thank you for your instructions.

Yours faithfully



J.S. MUELLER & CO  
Encl.

Per: Adrian Mueller

Waratah Strata Management followed Solicitor Adrian Mueller's advice to the letter and send Lot 158 a letter excluding all his Motions on 10 October 2017:

**WARATAH**  
Strata Management

Address: P.O. Box 125, Eastwood NSW 2122 Phone: 02 9114 9599 Fax: 02 9114 9598  
Email: enquiry@waratahstrata.com.au Web: www.waratahstrata.com.au

10 October 2017

158/1-15 Fontenoy Road,  
MACQUARIE PARK NSW 2113

Dear Sir,

**RE: STRATA PLAN 52948, 1-15 FONTENOY ROAD, MACQUARIE PARK**

We write as the strata managing agent of The Owners – Strata Plan 52948 at 1-15 Fontenoy Road, Macquarie Park.

We are writing in relation to your recent requests for a series of motions to be included in the agenda of the next general meeting of the Owners Corporation.

We regret to advise that many of your requests for those motions to be included in the agenda of the next general meeting generally do not comply with the strata legislation, as a result of which the overwhelming majority of the material contained in your requests will not be included in the agenda of the next general meeting.

Yours faithfully,

**WARATAH STRATA MANAGEMENT PTY LTD**

*Robert Crosbie*

Strata Manager

57. Waratah Strata Management followed Solicitor Adrian Mueller's advice again at AGM 2018 and disallowed all Lot 158's



## Motions, including ones related to fraud and false statements in Police Event E65804633:

Two most critical Motions that Solicitor Adrian Mueller and Waratah Strata Management prevented from being considered by 218 owners:

### **Motion: Order strata documents to be handed over by Solicitor Mr. Adrian Mueller**

The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms and approves the following:

- Section 192E of the Crimes Act 1900 states that a person who, by any deception, dishonestly obtains property belonging to another, or obtains any financial advantage or causes any financial disadvantage, is guilty of the offence of fraud, with maximum penalty of imprisonment for 10 years.
- Section 316 of the Crimes Act 1900 (NSW) makes the knowing concealment of information relating to a "serious indictable offence" a crime punishable by up to 2 years imprisonment.

Section 4 of that Act defines "serious indictable offence" to mean an indictable offence that is punishable by imprisonment for life or for a term of 5 years or more. Subject to certain exclusions this generally includes the fraud offences in Part 4AA of that Act as well as stealing and similar offences in Part 4.

Section 316(1) states if a person has committed a serious indictable offence and another person who knows or believes that the offence has been committed and that he or she has information which might be of material assistance in securing the apprehension of the offender or the prosecution or conviction of the offender for it fails without reasonable excuse to bring that information to the attention of a member of the Police Force or other appropriate authority, that other person is liable to imprisonment for 2 years.

- There is currently no maximum elapsed time period for indictable offences in NSW.
- After owners corporation was forced to repay \$8,800.00 to CHU Insurance for insurance claims in first quarter of 2017 for events that occurred in 2012/2013, Fraud Report E65804633 dated 9<sup>th</sup> September 2017 was submitted, with Police investigations and interviews starting in late 2017 and continuing in 2018.

Issues in the investigations include alleged false statements by BCS Strata Management in Statutory Declaration to CTTT on 19<sup>th</sup> April 2013, four different versions of the same Standard Costs Agreement with Solicitor Mr. Adrian Mueller, secret change of the insurance policy for SP52948 and then claiming amount of \$24,919.31 (plus GST) for alleged "defense" of Lot 3 at CTTT in 2012/2013 without owners corporation full disclosure or decision at any general meeting, false written statements to CTTT by selective EC members, invoice paid for insurance premiums to Gallagher Australia on 21<sup>st</sup> September 2012 in amount of \$84,414.77, which was 74.38% higher than in September 2011, losses to Lot 158 in amount of close to \$29,000.00.

Solicitor Mr. Adrian Mueller, was actively involved in the creation of the Statutory Declaration, against the wishes of owners corporation or approval at any general meeting or disclosure, caused excessive courier costs to owners corporation in amount of \$851.56 on 19<sup>th</sup> April 2013 and was based on rushed EC meeting seven days ahead of scheduled date, without owners being able to respond, comment, or complain.

- Secretary of the EC Mrs. Lorna Zelenzuk and acting Chairperson Mr. Robert Crosbie failed to include Motion at AGM 2017 confirm payments to Solicitor Mr. Adrian Mueller, in non-compliance with Strata Schemes Management Act 2015, Schedule 1, c(4):

Solicitor Mr. Adrian Mueller was engaged 14 times in period March 2012 and September 2016 without disclosure of expenses in any financial statement given to owners corporation at general meetings.

Solicitor Mr. Adrian Mueller was paid \$63,318.77 (GST included), with full details for 2017 and 2018 undisclosed to owners by Waratah Strata Management:

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

### **Motion: Order to Waratah Strata Management to produce eight copies of emails to Police and Lot 158**

The Owners Corporation SP52948 by ORDINARY RESOLUTION confirms and approves the following:

- Fraud Report E65804633 dated 9<sup>th</sup> September 2017 initiated Police investigations and interviews in late 2017 and during 2018.

For missing documents that are critical to proving false statements by BCS Strata Management staff in Statutory Declaration to CTTT on 19<sup>th</sup> April 2013, Police requested access to strata files from Waratah Strata Management Mr. Robert Crosbie.

Waratah Strata Management provided incomplete strata files and none of the eight crucial documents (copies of emails) were included.

- Two written reports from BCS Strata Management claim that all SP52948 were provided to Waratah Strata Management before end of their contract on 30<sup>th</sup> January 2017:

Representative of Pica Group (parent company of BCS Strata Management) in email on 13<sup>th</sup> February 2018.

BCS Strata Management Licensee-in-Charge Dr. Adrian Carr in email on 20<sup>th</sup> July 2018.

- Strata Schemes Management Act 2015, Section 180 prescribes that certain records of strata plan must be retained for period of seven years, and that includes all correspondence and emails.
- In accordance with Strata Schemes Management Act 2015, Section 181, owners corporation issues a request to Waratah Strata Management to produce eight emails no later than 14 days after the notice. The emails shall then be handed over to the Police.
- Owners corporation shall hand over copies of eight missing emails (and other strata documents as listed for the members of the EC and Waratah Strata Management) that lot 158 did not get in spite of paid document search on 13<sup>th</sup> June 2017.
- Owners corporation acknowledges that refusal to provide the documents might incur additional costs at owners expense and force NCAT Tribunal's orders.

J S MUELLER & CO SOLICITORS	56130	28/05/2012	\$198.00	31/05/2012
J S MUELLER & CO SOLICITORS	55003	13/03/2012	\$2,500.00	27/03/2012

Mr. Adrian Mueller was allegedly engaged to provide legal advice at an estimated cost of \$3,500.00 + GST and review Lot 158 owner's motions for AGM 2017 at an estimated cost of \$1,750.00 + GST (documented in the Minutes of EC meeting on 20<sup>th</sup> July 2017).

- For missing documents that are critical to proving false statements by BCS Strata Management staff in Statutory Declaration to CTTT on 19<sup>th</sup> April 2013, Police requested access to strata files from BCS Strata Management and Solicitor Mr. Adrian Mueller (separate Motion for AGM 2018 deals with Waratah Strata Management).

- Based on latest update from the Police dated 22<sup>nd</sup> August 2018, none of the parties provided copies of eight emails, with statement that Mr. Adrian Mueller attempted to find them but failed to locate them.

- Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015, under the Legal Profession Uniform Law, the following applies to legal profession:

4.1 A solicitor with designated responsibility for a client's matter, must ensure that, upon completion or termination of the law practice's engagement:

14.1.1 the client or former client, or

14.1.2 another person authorised by the client or former client, is given any client documents, (or if they are electronic documents copies of those documents), as soon as reasonably possible when requested to do so by the client, unless there is an effective lien.

14.2 A solicitor or law practice may destroy client documents after a period of 7 years has elapsed since the completion or termination of the engagement, except where there are client instructions or legislation to the contrary.

- As 7-year period expires in February 2021 (from the completion of the law practice engagement in 2014), owners corporation issues an order to Solicitor Mr. Adrian Mueller to give all SP52948 documents to current Secretary of the Executive Committee at no cost, who shall ensure that Police receives the copies of missing eight emails.

- If Solicitor Mr. Adrian Mueller fails to comply, owners corporation shall raise a complaint with the Office of the Legal Services Commissioner (OLSC), which already had a caution against Mr. Adrian Mueller for not following legal practices in SP52948 in 2013, and raise a further complaint with the Department of Fair Trading.

58. In FY 2018, Solicitor Adrian Mueller charged SP52948 \$5,550.00 for services which include attempt to silence Lot 158 through "Bylaw Prohibiting Unreasonable Communication". None of the owners were notified about the amount of costs incurred by the Solicitor at any time during 2018 and 2019. The registration of the By-Laws was illegal because there was no quorum to approve them at the general meeting:

	J.S. Mueller & Co	750.00	Paid	DE	84104	000323
11/12/2017 Bylaw Prohibiting Unreasonable Communications	J.S. Mueller & Co	1,750.00	Paid	DE	83412	000323
11/12/2017 Advice on Motions Requested by	J.S. Mueller & Co	2,700.00	Paid	DE	83410	000323
11/12/2017 Advice on Communications by	Waratah Strata Management	275.00	Paid	DE		000332

59. Lot 158 sent multiple requests to Waratah Strata Management and committee members to stop wasting owners' funds on legal costs, as per one example of email on 19 June 2019:



**Subject:** Re: WITHOUT PREJUDICE: Request to stop wasting strata funds on legal expenses that cannot succeed - 18Jun2019

**From:**

**Date:** 19/6/19, 12:48 am

**To:** Robert Crosbie

**CC:** Frank Tallaridi

One more item to make this rock-solid:

There are two types of the documents that are in alleged eight emails sought by the Police, Fair Trading NSW, and Lot 158:

- Emails where Solicitor Adrian Mueller was a direct sender or a recipient (they are much more difficult to "misplace or "lose" because they are part of work files),
- Emails from the owners corporation and strata managers that were allegedly provided to Solicitor Adrian Mueller when he prepared Statutory Declaration for the strata manager. In theory, they are possibly easier to displace but nevertheless difficult to justify, especially since they had to be processed electronically for the generation of the Statutory Declaration dated 19 April 2013.

Had Solicitor Adrian Mueller really lost those files (for whatever reason), he would still be guilty as per Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015, under the Legal Profession Uniform Law, 14.1.2, and would have to notify both the Police and the owners corporation about such an event. No client would appreciate loss of files, especially in event when CHU Insurance forced SP52948 to repay \$8,800.00 for insurance claims made in 2012/2013. Solicitors must follow strict rules in the maintenance of client files.

SP52948 owners have not received any notice from Solicitor Adrian Mueller about his negligence (if the files are really "lost or misplaced permanently") since April/May 2018!

Attorney-General Greg Smith (2011-2014), who tabled the Law Society's report in parliament, said it was important that lawyers were held to account.

On 18/6/19 10:59 pm, [REDACTED] wrote:

Hi,

**To be shared with all owners in the complex immediately. Any attempt to avoid doing it as a risk for the strata agency.**

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

The screenshot shows an email interface. The email is from Robert Crosbie to Adrian Mueller (adrian.mueller@muellers.com.au) and Frank Tallaridi. The subject is 'SP 52948, 1-15 Fontenay Road, Macquarie Park'. The email body contains the following text:

Adrian,

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

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

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

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

Regards,

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

Below the email is a 'List Tool' table showing a list of documents:

Address	Manager	Notes	Show on Portals	Postal Description	Archive Date	User Name	Document ID
Macquarie Gardens, 1-15 Fontenay Road, Macquarie Park NSW 2113	Frank Tallaridi	Lot 158			13/08/2019 12:25 PM	Robert Crosbie	29759
Macquarie Gardens, 1-15 Fontenay Road, Macquarie Park NSW 2113	Frank Tallaridi	Lot 158			13/08/2019 12:25 PM	Robert Crosbie	29758
Macquarie Gardens, 1-15 Fontenay Road, Macquarie Park NSW 2113	Frank Tallaridi	Lot 158			13/08/2019 12:25 PM	Robert Crosbie	29757
Macquarie Gardens, 1-15 Fontenay Road, Macquarie Park NSW 2113	Frank Tallaridi	SC Minutes			24/06/2019 6:15 PM	Robert Crosbie	19359
Macquarie Gardens, 1-15 Fontenay Road, Macquarie Park NSW 2113	Frank Tallaridi	Fire Testing			24/06/2019 6:00 PM	Robert Crosbie	19357
Macquarie Gardens, 1-15 Fontenay Road, Macquarie Park NSW 2113	Frank Tallaridi	Mueller			21/06/2019 10:03 AM	Robert Crosbie	19228
Macquarie Gardens, 1-15 Fontenay Road, Macquarie Park NSW 2113	Frank Tallaridi	Lot 158			26/06/2019 5:09 PM	Robert Crosbie	19463
Macquarie Gardens, 1-15 Fontenay Road, Macquarie Park NSW 2113	Frank Tallaridi	Jeffrey Wang re legal action			20/06/2019 8:43 AM	Robert Crosbie	19169
Macquarie Gardens, 1-15 Fontenay Road, Macquarie Park NSW 2113	Frank Tallaridi	Lot 158			19/06/2019 8:53 AM	Robert Crosbie	19499

Total Files Selected: 1, Total Files: 227

2019-09-20 10:44:56

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



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

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

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

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

61. Lot 158 request to urgently pass information to Fair Trading NSW and Office of Legal Services Commissioner about deliberate and premeditated plan by Waratah Strata Management to exclude Lot 158 Motions for AGM 2017 was ignored by Waratah Strata Management on 23 June 2019

<b>From:</b>	SP52948 owner
<b>To:</b>	Robert Crosbie, Frank Tallaridi
<b>Subject:</b>	Request to urgently pass this to Fair Trading NSW and Office of Legal Services Commissioner - Deliberate and premeditated plan by Waratah Strata Management to exclude Lot 158 Motions for AGM 2017
<b>Date:</b>	23/6/19, 1:39 pm

Hi,

Passage of time reveals everything.

- Solicitor Adrian Mueller gave Waratah Strata Management direct advice on how to manipulate Lot 158 Motions for AGM 2017 by suggesting and providing template document on 23 August 2017 (attachment "SP52948-Solicitor-Adrian-Mueller-advice-on-23Aug2017-how-to-remove-Motions-by-Lot-158-and-prevent-them-for-AGM2017-by-simply-sending-letter-to-Lot-158-on-the-day-of-agenda-being-sent-in-October-2017-which-would-not-give-enough-time-for-amended-agenda.webp"):

- a) Not to provide any reasons for excluding Lot 158 Motions from general meeting,
- b) Send the letter to Lot 158 on the date of agenda for AGM 2017 so that no time is given for agenda amendments.

Waratah Strata Management prepared letter rejecting Lot 158 Motions as early as 23 August 2017 (attachment "SP52948-Waratah-Strata-Management-secret-letter-to-exclude-Lot-158-Motions-23Aug2017.webp") but sent it to Lot 158 (with only letterhead change and the date) as late as 10 October 2017 (AGM was scheduled for 24 October 2017).

Waratah Strata Management "pretended" to continue to engage with Lot 158 in regards to AGM Motions (as seen from below email dated 27 September 2017 and the follow-ups till early October 2017), with clear plan to ignore Lot 158 since August 2017.

- Solicitor Adrian Mueller was clearly worried about weak Special By-Law he proposed for "Unreasonable Communication" that stands no legal grounds and will be removed at the next general meeting. He charged \$2,500.00 (plus GST) for preparing the by-law and reviewing Lot 158 Motions. The "Unreasonable Communication" By-Law does not comply with Section 139(1) of SSMA 2015 (provides that a by-law must not be "harsh, unconscionable or oppressive"). A person entitled to vote on a motion making a by-law may apply to the NSW Civil and Administrative Tribunal (NCAT) for an order invalidating such a by-law. Attachment "SP52948-Solicitor-Adrian-Mueller-worried-about-weak-by-law-prohibiting-unreasonable-communication-10Oct2017.webp".
- Waratah Strata Management "won" the contract at AGM 2017, without tender, in spite of poor performance in period 1 February 2017 to 24 October 2017, hiding evidence of three EC members not being financial due to unpaid second gas levies, six proxies directly held in Robert Crosbie's name of which only one had direct instruction not to approve Waratah Strata Management contract renewal, increasing the value of the contract with disclosure and against the owners decision at AGM 2016, and much more.
- Office of Legal Services Commissioner provided assurance that they would act promptly and force Solicitor Adrian Mueller to provide famous eight emails to SP52948 if requested officially on 1 March 2019 (the eight emails are allegedly "lost" in SP52948 files and on the USB given to Police and relate to Statutory Declaration given to CTTT on 19 April 2013). Lot 158 now request that Waratah Strata Management send this request to OLSC immediately.

Lot 158 will allow Waratah Strata Management to provide evidence of this email being forwarded to Fair Trading NSW by Tuesday afternoon, 25 June 2019.

Lot 158 will allow Waratah Strata Management to provide evidence of this email being forwarded to OLSC by Tuesday afternoon, 25 June 2019.

62. Waratah Strata Management secret handwritten notes at committee meeting on 5 September 2019 engaging Solicitor Adrian Mueller without general meeting to prepare Deed for Lot 158 that was ready and presented to Lot 158 at AGM on 17 October 2019 (with plan to spend up to \$150,000.00 to prevent Lot 158 from investigating mismanagement in the complex):



Legal Action Motion on Agm Agenda to  
 Approve Legal Action on Barrister \$150000  
 Have Mueller prepare a Deed he can  
 sign at meeting to cease further action  
 DB targeting SC because they are on  
 SC not as individuals, so OC should fund  
 not onus 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  
 & get Auditors to deal with transactions  
 Chairmans Report to discuss positive cashflow  
 & budget

Gas Charges - All Gas Charges that have been  
 involved have been paid. OC not willing to  
 take action to audit past amounts issued &  
 paid.

Left Block Co D Close to finished by end Sept  
 Disability P & TBC

Council - Jeffray to advise progress with council.

Insurance - See new valuations before renewal

Energy Action - Approved  
 Skylight Quote. Approved.

Close 7.25pm

Chairmans Report Vote of Thanks Steve Carbone

Agm 24/10/19

63. Solicitor Adrian Mueller letter to O'Brien Criminal & Legal Solicitors on 14 November 2019, refusing access to strata files for Lot 158. Owners have never received or been given access of Adrian Mueller's Standard Costs Agreement. In it, it said, among the others:

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.

64. On 24 April 2020, O'Brien Criminal & Legal Solicitors on behalf of Lot 158 sent request to Waratah Strata Management and committee members to respond on many issues, including legality of Waratah Strata Management contract. Reply was never received:

O'Brien Criminal & Legal Solicitors requested answers on the following:

- Legality of committee (quest on unfinancial owners)
- Lot 158 valid member of the committee
- Defamation
- Offer for mediation between Lot 158 and SP52958 without costs

We are further instructed that during the last three years at least two of those candidates have not been legally elected to the committee as they have not been financial.

As you are aware, in order for a candidate to be legally elected they must not be liable for any outstanding levies or unpaid interest on invoices. Further, in order for a candidate to legally vote on committee decisions they must not be liable for any outstanding levies or unpaid interest on invoices at the time of the vote.

We are instructed that over the last three years, certain persons have voted on committee decisions when they have not been in the required financial position. This would have the effect of making those decisions invalid.

Further, pursuant to the combined effect of the *Strata Schemes Management Act 2005* and Section 76(1)(b) of the *Interpretation Act 1987*, in order for the committee meetings to be lawful, all owners must receive advanced written notice of the meetings and the agenda. We are instructed that this has not occurred.

This legality of any contracts that have been entered into by the committee is also questionable if they have been signed by non-financial members.

If you disagree with the above then please provide evidence that all of the committee members were financial throughout 2017, 2018 and 2019 and that all owners received advanced written notice of meetings and the agenda of those meetings.

Please also provide evidence that the current contracts with Waratah Strata Management Pty Ltd and Uniquenco Pty Ltd have been signed by legally elected members of the committee.

#### DOCUMENTS REQUIRED TO BE AVAILABLE FOR INSPECTION

Unredacted Email from Solicitor Adrian Mueller to Branch Manager Paul Banoob dated 5<sup>th</sup> of July 2012 at 04:41 pm (listed in Statutory Declaration to CTTT by strata manager Peter Bone dated 19<sup>th</sup> of April 2013)

Unredacted Email from Branch Manager Paul Banoob to Strata Manager Garry Webb dated 5<sup>th</sup> of July 2012 at 04:57 pm (listed in Statutory Declaration to CTTT by strata manager Peter Bone dated 19<sup>th</sup> of April 2013)

Unredacted Email to EC members from BCS Strata Management Garry Webb dated 6<sup>th</sup> of July 2012 at 08:32 am (listed in Statutory Declaration to CTTT by strata manager Peter Bone dated 19<sup>th</sup> of April 2013)

Unredacted Email to EC members and two staff members at BCS Strata Management from SP52948 Chairperson dated 6<sup>th</sup> of July 2012 at 12:48 pm (listed in Statutory Declaration to CTTT by strata manager Peter Bone dated 19<sup>th</sup> of April 2013)

Unredacted Email to EC members and two staff members at BCS Strata Management from SP52948 Chairperson dated 9<sup>th</sup> of July 2012 at 10:18 pm (listed in Statutory Declaration to CTTT by strata manager Peter Bone dated 19<sup>th</sup> of April 2013)

Unredacted Email from Solicitor Adrian Mueller to BCS Strata Management Peter Bone dated 16<sup>th</sup> of July 2012 at 6:52 pm (listed in Statutory Declaration to CTTT by strata manager Peter Bone dated 19<sup>th</sup> of April 2013)

Unredacted Email from BCS Strata Management Peter Bone to Solicitor Adrian Mueller dated 25<sup>th</sup> of July 2012 at 2:13 pm (listed in Statutory Declaration to CTTT by strata manager Peter Bone dated 19<sup>th</sup> of April 2013)

Unredacted Email from BCS Strata Management Debbie Downes to EC members dated 16<sup>th</sup> of April 2013 at 1:52 pm (listed in Statutory Declaration to CTTT by strata manager Peter Bone dated 19<sup>th</sup> of April 2013)

Cash Book Receipts By Receipt Date for FY 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, and FY 2020 up to 24 April 2020

Cash Book Payments By Account Code for FY 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, and FY 2020 up to 24 April 2020

Income Tax Returns for FY 2012, 2013, 2014, 2015, 2016, 2017, 2018, and 2019

Copies of all yearly fire safety inspection reports By Eagle Fire Protection for FY 2013, 2014, 2015, 2016, 2017, 2018, 2019, and 2020 (in 2020, report from audit in January and March are required)

Copy of full audit of second gas connections for 218 lots, including who conducted it, the dates of gas disconnections with names of certified plumbers, and the date of the report

Register of items excluded from common-property (examples: exclusive rights to common property given to Lot 3 and Lots 136/137, windows and frames with double-glaze glass, windows and frames with solar heating panels, air-conditioning units on the balconies, five private lattices in front of townhouses Lot 194, Lot 197, Lot 199, Lot 202, and Lot 216, pergola modifications, second gas connections, and others)

Contact details of financial auditors for FY 2017 and 2018

Copies of signed audits that must have been completed before AGMs in FY 2017 and 2018

Copies of multiple quotes for hot water system in Block C costing above \$30,000.00 that Uniquenco Property Services allegedly obtained in 2017

Copies of explicit delegation of duties of Treasurer, Secretary, and Chairperson to strata managers at BCS Strata Management and Waratah Strata Management in any period between October 2012 and 24 April 2020

Copies of all the correspondence with the Police in regards to USB key handed over to them by Waratah Strata Management in period March 2018 to 24 April 2020

Copy of the signed Deed of Release with BigAir ISP and other applicable legal documents after their eviction from the complex

Evidence of who made decision to undercharge BigAir ISP and at which legally-convened meeting

Copies of all invoices and work completed in relation to water leak damages in the complex in period 2012 to 31<sup>st</sup> of March 2020

Evidence that Lot 3 and Lots 136/137 comply with Special By-Laws in regards to public liability insurance for FY 2013, 2014, 2015, 2016, 2017, 2018, 2019, and 2020

Copies of detailed AGM agenda including quorum calculations for financial owners for FY 2014, 2015, 2016, 2017 and 2018, and 2019

Invoices for all work related to painting and major repairs in 2017/2018 (including work done on townhouses allegedly costing \$92,950.00)

Email from Teagan Robards at BCS Strata Management to Gary Mills and Lilia Olson with the spreadsheet of charges for Lot 181 second gas connection dated 17<sup>th</sup> of July 2015 at 12:51 pm (Subject line: "RE: S & T Pogorelsky - Gas charges paid from 1998 to 2015 - Strata Plan 52948")

Email from Stan Pogorelsky with the spreadsheet for Lot 181 paid levies for second gas connection to Gary Mills at BCS Strata Management on 10<sup>th</sup> of June 2015 at 4:28 pm

All invoices for second gas connection for FY 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, and FY 2020 up to 31<sup>st</sup> of March 2020

Details of reimbursements to townhouses for private water and gas usage for FY 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, and FY 2019 up to 31<sup>st</sup> of March 2019

ThyssenKrupp Elevator correspondence and invoices in 2015, 2016, 2017, and 2018

ThyssenKrupp Elevator service reports for 2015, 2016, 2017, and 2018

Evidence of tender correspondence for elevator contract renewal in 2018

Copy of current elevator contract with Liftronics

Details of all elevator faults and risks in period 2014 to 24 April 2020

Uniquco Property Services monthly reports for FY 2016, 2017, 2018, 2019, and 2020 up to 24 April 2020

Evidence of electricity supply contract renewal in 2018, including details of when and who approved it

Copy of current electricity supply contract

Copy of current contract with Waratah Strata Management

Copy of all SP52948 correspondence with Solicitor Adrian Mueller and Crittenden in period 2012 to 24 April 2020

All insurance claims in period August 2013 to 24 April 2020

Correspondence between EC members and strata managers at BCS Strata Management and Waratah Strata Management in period February 2017 to 24 April 2020

Correspondence between CHU Insurance and their lawyers and SP52948 in regards to repayments for insurance claims in 2012/2013 for alleged "Defence of Lot 3"

Correspondence between BCS Strata Management and Waratah Strata Management in period November 2016 to 31<sup>st</sup> of March 2020 (including requests to BCS Strata

Management to provide additional copies of SP52948 strata files due to allegedly lost files on USB key)

All correspondence between Waratah Strata Management with the Police and other applicable enforcement agencies in regards to computer break-in in period 1<sup>st</sup> of February 2019 to 24 April 2020

All correspondence between EC members, strata managers and the Police for any other security or legal matter in period 2014 to 24 April 2020

Copies of recovery of funds from parties responsible for frequent damages to car entrance gate in period 2013 to 24 April 2020

Copies of correspondence with owners for all By-Laws compliance issues in period October 2012 to 24 April 2020 (smoking, safety of tenants, and so on)

Copies of all correspondence with Ryde Council and Fire and Rescue NSW in period October 2014 to 24 April 2020

Copies of:

- Warranty of Workmanship from Townview Painting Services for painting project in 2017/2018
- Dulux warranty for painting project in 2017/2018
- Liftronic warranty for elevator upgrades in 2019

Evidence that Uniquco Property Services and Waratah Strata Management have no more than 10 staff

Evidence that current contracts with Uniquco Property Services and Waratah Strata Management were signed by legally-elected members of the EC

Evidence of chequebook payments for all periods before 14<sup>th</sup> of February 2017

Evidence of Police Event, reports to Microsoft and other applicable agencies in relation to alleged ransomware attack at Waratah Strata Management in February 2019

Evidence of who paid for alleged ransomware attack at Waratah Strata Management in February 2019

Extracts from bank transactions for FY 2017, 2018, 2019, and 2020 up to 24 April 2020

65. Extract from committee meeting on 7 May 2020, where they gave direct orders to Solicitor and his barrister to respond to Lot 158 legal team: O'Brien Criminal & Civil Solicitors.

Strata Plan SP52948 committee meeting dated 7 May 2020, as organised by Waratah Strata Management, did not satisfy requirements of Strata Schemes Management Act 2015 (SSMA), Schedule 2, Section 4 (1) and (2), and section 7, and Interpretation Act 1987 (NSW).

Agenda was created on 1 May 2020 and scheduled for 7 May 2020. Excluding date of creation, meeting date, and the weekend, ONLY three days were allowed for delivery of notice to all owners. As per Strata Roll dated 31 January 2017, more than 32% of owners had requested postal delivery of notices – that figure is hidden from owners by Waratah Strata Management in subsequent years.

Agenda was not detailed, as required by SSMA 2015 and was not sent to Lot 158.

Solicitors failed to comply with alleged decision at this meeting, and owners were never informed about it:

- Legal advice regarding Lot 158, including acceptance of barrister fee proposal - Subject to amendments required to the content of the costs agreement, the strata manager is instructed to sign the costs agreement under common seal for and on behalf of the Owners Corporation. The barrister is also to be requested to respond to the letter received from O'Brien Criminal & Civil Solicitors on behalf of

66. On 27 July 2020, Lot 158 sent request to Waratah Strata Management and committee members to authorise actions for proper management of the complex, including recovery of funds from Solicitor Adrian Mueller. No reply forced NCAT case 20/33352 to start:

Extracts from the email:



<b>From:</b>	SP52948 owner
<b>To:</b>	John Gore, Moses Levitt, Jeffery Wang, Stan Pogorelsky, Thomas Karolewski, Marianna Paltikian
<b>Subject:</b>	CONFIDENTIAL OFFER: SP52948 Your actions today and tomorrow
<b>Date:</b>	27/7/20, 10:37 am

Good morning,

This email justifies your direct notification, without strata managers at present.

What a lovely day it is.

Last week, Waratah Strata Management claimed they let CCTV footage that we requested of Lot 181 to be "overwritten" and only under strong pressure, after one month of silence, provided CCTV recording for event related to Lot 147 dated 10 June 2020.

But, that is just a tip of the iceberg.

Based on below brief statements, we are giving you an opportunity to take proper actions now:

a) Provide written statements to Lot 158 in next 24 hours that you were personally misled about these events by Solicitor Adrian Mueller in the past and that you did not know about fraudulent activities, and now offer full support for investigations to proceed.

b) Provide written authorization to Lot 158 in next 24 hours to represent owners corporation and deal with:

Office of Legal Services Commissioner case 56561 (professional misconduct by Solicitor Adrian Mueller)

Police Event E65804633

Fair Trading NSW cases (there are seven of them)

Pending NCAT case (if you persist in defending the indefensible)

c) Provide written authorization to Lot 158 in next 24 hours to assist with access to any strata file that has been listed in previous document searches.

d) Issue immediate order to Solicitor Adrian Mueller to reimburse owners corporation for all SP52948, of which \$26,500.00 will promptly have to be repaid to Lot 158 (plus around \$4,000.00 for legal costs).

e) Notify owners about these events.

f) As a friendly advice, you might consider if your position as committee member is justifiable any longer.

Regards,

Since 24 April 2020, you have been requested to respond to our Civil and Criminal lawyers and failed to attend free mediation at Fair Trading NSW. You declined to inform owners about the details of the request and also failed to provide each and every owner with copy of the Standard Costs Agreement within 14 days for all legal engagements in last three years (practice you did so many times with Solicitor Adrian Mueller too).

You are herewith provided with two pieces of information (we now have much more) that prove:

a) Solicitor Adrian Mueller intentionally provided false and misleading statements to Fair Trading NSW and hid information from them to hamper their investigations

b) Solicitor Adrian Mueller intentionally provided false and misleading statements to CTTT and hid information from them to hamper their investigations

c) Solicitor Adrian Mueller intentionally mislead District Court to obtain personal benefits and protect selective group of owners and strata managers

d) Mr. Peter Bone intentionally provided false and misleading statements in Statutory Declaration to CTTT (the document was written by Solicitor Adrian Mueller)

e) Mr. Peter Bone intentionally provided false and misleading statements in Affidavit to District Court

f) Lot 181 and Lot 147 provided misleading and false statements in their submissions to CTTT, without disclosure that they were unfinancial and could not be legal members of the committee

g) Lot 218 provided misleading and false statements in his submissions to CTTT

h) Other owners and previous members members of the committee provided false and misleading statements to CTTT

Here are two pieces of crucial evidence:

**Solicitor Adrian Mueller illegally represented SP52948 in SM12/1537 and CTTT SCS 12/50460**

1. CTTT SCS 12/50450 interim order to stop Annual General Meeting 2012 due to serious misconduct was dismissed until after Annual General Meeting and CTT forced SCS 12/50460 to go to mediation on 10 September 2012

2. Lot 158 sent email to Solicitor Adrian Mueller about facsimiles sent to CTTT SCS 12/32675, 12/50450, and 12/50460 on 19 October 2012

3. NSW Fair Trading forwarded files to BCS Strata Management Peter Bone in CTTT SCS 12/50460 mediation events on 17 January 2013

4. On 6 March 2013, Solicitor Adrian Mueller sent letter to Fair Trading NSW claiming that he was legally representing SP52948 in mediation case SM12/1537 (precursor to CTTT file SCS 12/50460)

5. Solicitor Adrian Mueller was paid invoices which included work for mediation case SM12/1537 and CTTT SCS 12/50460

6. In spite of all involvement, Solicitor Adrian Mueller claimed not knowing about CTTT SCS 12/50460 in email sent to BCS Strata Management on 6 May 2013

7. Solicitor Adrian Mueller issued Standard Costs Agreement for CTTT SCS 12/50460 on 6 May 2013

8. Letter from CTTT in file SCS 12/50460 sent to Solicitor Adrian Mueller about non-compliance order for SP52948 Secretary and Solicitor on 7 May 2013

9. Solicitor Adrian Mueller invoice charging for involvement in CTTT SCS 12/50460 mediation events at NSW Fair Trading on 10 May 2013 without owners corporation approval or Standard Costs Agreement

10. Lot 158 repeated complaints about false representation by Solicitor Adrian Mueller and expenses in CTTT SCS 12/50460 on 13 May 2013
11. Lot 158 provided summary of owner's votes against any engagement of Solicitor Adrian Mueller to BCS Strata Management on 17 May 2013
12. BCS Strata Management provided false statement to a single owner about owners corporation engaging Solicitor Adrian Mueller not BCS Strata Management and planning how to recover Solicitors costs if CTTT case is rejected on 22 May 2013
13. BCS Strata Management requesting extension of time to respond in CTTT SCS 12/50460 and confirmed that Solicitor engagement had to be approved at Extraordinary General Meeting on 24 May 2013
14. Lot 158 repeated requests to Solicitor Adrian Mueller to return files due to false representation by Solicitor Adrian Mueller in CTTT SCS 12/50460 on 1 June 2013
15. Lot 158 Folder 12 submission in CTTT SCS 12/50460 with evidence of illegal engagement of Solicitor Adrian Mueller on 4 June 2013
16. Lot 158 request to access strata files for CTTT file SCS 12/50460 on 5 June 2013
17. Lot 147 email confirming he was fully aware of Lot 158 rights to access strata files on 5 June 2013
18. Lot 158 request to BCS Strata Management and committee about their refusal to organise general meeting and accept owners wishes for CTTT file SCS 12/50460 on 6 June 2013
19. SP52948 CTTT SCS 12/50460 decision on 2 September 2013
20. EC member confirming Solicitor Adrian Mueller not engaged for CTTT 12/50460 on 2 September 2013. Email recipients are in full evidence of Lot 158

**Mr. Peter Bone and Solicitor Adrian Mueller statement to CTTT (other references to false statements will not be shared with you yet!)**

21. Statutory Declaration by Mr. Peter Bone (written by Solicitor Adrian Mueller) on 19 April 2013:

*On 25 July 2012 the Standard Costs Agreement was signed by Gary Webb on behalf of the owners corporation. I know Gary Webb personally. He is employed by Raine & Horne Strata - Sydney. Mr. Webb was the person at Raine & Horne Strata Sydney who throughout July 2012 was the person responsible for the day to day strata tile management of the owners corporation. I have seen Mr Webb sign document and I recognise the signature on the costs agreement as his signature.*

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

22. Solicitor Adrian Mueller letter to CTTT on 19 April 2013:

*On 25 July 2012 the then strata manager of the owners corporation, Gary Webb, signed the lawyer's costs agreement on behalf of the owners corporation and the signed costs agreement was emailed to the lawyer by the strata manager on that day.*

(EC meeting on 22 August 2012 introduced Mr. Peter Bone as new strata manager!)

- [20200723-Re\\_52948 - CCTV USB footage-32914.pdf](#)
- [Lot-158-legal-demand-to-SP52948-24April2020.pdf](#)
- [SP52948-Standard-Costs-Agreement-with-Solicitor-Adrian-Mueller-16Apr2013.webp](#)
- [SP52948-Standard-Costs-Agreement-with-Solicitor-Adrian-Mueller-19Apr2013.webp](#)
- [SP52948-Standard-Costs-Agreement-with-Solicitor-Adrian-Mueller-28Aug2012.webp](#)
- [SP52948-Standard-Costs-Agreement-with-Solicitor-Adrian-Mueller-29Jan2013.webp](#)
- [VOLUNTARY FORENSIC ANALYSIS Solicitor Standard Cost Agreement signed on 25 July 2012.msg](#)

No reply forced NCAT case 20/33352 to start.

67. On 12 August 2020, in preparation for NCAT case 20/33352 to ensure Tribunal has proper information, Lot 158 sent request to Waratah Strata Management to retrieve all files from Solicitor Adrian Mueller (as per original submission on 10 May 2013):



**Subject:** RE: OFFICIAL REQUEST on 10 May 2013: Immediate return of private property and reimbursement of Invoice on 6 March 2013

**From:** [REDACTED]

**Date:** 12/8/20, 2:48 pm

**To:** "frank@bcms.com.au", Robert Crosbie <[REDACTED]>

On behalf of SP52948, and the avoid unnecessary expenses for owners for reprinting files in current NCAT case, you are requested to issue order to Solicitor Adrian Mueller to return property that doe snot belong to him and he did not have rights to obtain it.

Thank you

----- Forwarded Message -----

**Subject:** RE: OFFICIAL REQUEST on 10 May 2013: Immediate return of private property and reimbursement of Invoice on 6 March 2013

**Date:** Tue, 14 May 2013 19:15:00 +1000

**From:** [REDACTED]

**Reply-To:** [REDACTED]

**Organization:** [REDACTED]

**To:** Adrian Mueller <[REDACTED]>

**CC:** Peter Bone <[PeterB@bcms.com.au](mailto:PeterB@bcms.com.au)>, Paul Banoob <[REDACTED]>

Hello,

Frankly, I do not care what you say nor you make any sense. What you say is worthless.

CTTT and the DFT were notified this week.

68. On 18 September 2020, in preparation for NCAT case 20/33352 to ensure Tribunal has proper information, Lot 158 sent request to Waratah Strata Management and committee members about illegal engagement of Solicitor Adrian Mueller in past CTTT cases.
69. Solicitor Adrian Mueller was actively involved in the following reviews of Lot 158 Motions, without his Standard Costs Agreements being listed on owners corporation's web portals by BCS Strata Management and later Waratah Strata Management, without full disclosure to owners, and without Standard Costs Agreement being presented to each and every owner:
- Lot 158 Motions for Annual General Meeting 2012
  - Lot 158 Motions for Annual General Meeting 2014
  - Lot 158 Motions for Annual General Meeting 2015
  - Lot 158 Motions for Annual General Meeting 2016 (Solicitor Adrian Mueller charged \$1,100.00 GST incl. for reviewing Lot 158 Motions on 5 September 2016)
  - Lot 158 Motions for Annual General Meeting 2017
  - Lot 158 Motions for Annual General Meeting 2018
  - Lot 158 Motions for Annual General Meeting 2019
  - Lot 158 Motions for Annual General Meeting 2020
  - Lot 158 Motions for Annual General Meeting 2022
70. Solicitor Adrian Mueller refused to respond to email sent to Supreme Court and him on 20 April 2022:

2.1. Special attachment "Strong-case-for-Solicitor-Adrian-Mueller-being-assessory-before-and-after-insurance-fraud-five-times-CTTT-12-32675-and-NCAT-20-33352.pdf" documents (in another folder under URL sent to Cost Assessor and Costs Applicant on 5 April 2022) contains irrefutable evidence that Solicitor Adrian Mueller failed to assist District Court in case 2013/360456 on 31 January 2014 where strata manager Peter Bone provided false statements in his Affidavit and Solicitor had such knowledge. Solicitor Adrian Mueller presented Affidavit by BCS Strata Management Peter Bone, knowing that it contained false information about Applicant never being denied access to strata files, which is easily confirmed by following evidence:

12 November 2012

15 November 2012 (complaint to BCS Strata Management that Respondent failed to honour Agreement signed by Solicitor Adrian Mueller during CTTT hearing on 17 October 2012)

8 March 2013

5 June 2013

17 October 2013

3. Solicitor Adrian Mueller failed to acknowledge that committee meeting held on 3 April 2022 did not satisfy requirements of Strata Schemes Management Act 2015 (SSMA), Schedule 2, Section 4 (1) and (2), and section 7 and Interpretation Act 1987 (NSW) (pages 15-16 of Costs Respondent's document dated 5 April 2022). Solicitor Adrian Mueller failed to acknowledge that in his invoices he claimed he had received authorisation from strata manager to lodge Supreme Court case on 1 March 2022 - two days before committee meeting. There is no evidence of such email and no evidence that Costs Applicant made such decision at any legally-compliant meeting. Solicitor Adrian Mueller failed to respond to Costs Respondent's paragraphs 17.1), 23), 23.1), and 23.2) in document dated 5 April 2022.
4. Solicitor Adrian Mueller continues to avoid presentation of alleged email from strata manager dated 23 October 2020. The attachment he provided is not an unredacted version of the email and contains no information about alleged attachments sent in that email. Solicitor Adrian Mueller failed to respond to Costs Respondent's paragraphs 57.1), 57.3), and 57.5) in document dated 5 April 2022. Solicitor Adrian Mueller did not provide evidence of legality of Annual General Meeting 2020 (owners who were financial to vote and overall conduct of the meeting).
5. Solicitor Adrian Mueller failed to address six versions of the alleged legal costs, including evidence that he was approved for these costs at any legal meeting.
  - 5.1. Solicitor Adrian Mueller continues to mislead Cost Assessor. Waratah Strata Management provided these figures in the Agenda for Annual General Meeting in October 2021 on pages 14 to 17 (for account code 153200) and they are not part of NCAT proceedings:

#### Addendum

9. Costs Respondent collected all forensic evidence that Costs Applicant (and Solicitor Adrian Mueller) did not make any attempt to log into secure web site to verify Respondent's evidence in period from 5 April 2022 until this afternoon. Costs Respondent collected all forensic evidence that Costs Applicant (and Solicitor Adrian Mueller) did not make attempts to send any email or letter to Respondent in period from 5 April 2022 until this afternoon. For the sake of evidence, Cost Assessor logged 938 times into secure website and took significant interest in Respondents' evidence.
10. Solicitor Adrian Mueller failed to provide any evidence of his alleged work and avoided direct questions about six versions of his legal costs which conflicted with owners corporation documents provided to owners before Annual General Meeting 2021.
11. Solicitor Adrian Mueller did not provide any evidence of his alleged correspondence with NCAT and he was directly challenged to do it, especially since document search at NCAT on 8 March 2022 found no such evidence. Solicitor Adrian Mueller failed to respond to Costs Respondent's paragraphs 41.2) in document dated 5 April 2022.
12. Solicitor Adrian Mueller failed to provide information about sudden insurance claim in amount of \$19,758.14 (on 25 March 2022 Waratah Strata Management listed revenue from insurance claims in amount of \$19,758.14 in Income & Expenditure Report):
  - Income & Expenditure Report listed all legal costs in period from 1 September 2021 to 21 March 2022 as \$380.00 and no insurance claims for legal costs,
  - Income & Expenditure Report listed all legal costs in period from 1 September 2021 to 24 March 2022 as \$4,128.71 and no insurance claims for legal costs,
  - Income & Expenditure Report suddenly listed all legal costs in period from 1 September 2021 to 25 March 2022 as \$4,128.71 and insurance claims for legal costs as 19,758.14.
13. Additional evidence for continuous misconduct by Solicitor Adrian Mueller which was prepared in anticipation of Solicitor's response:

<https://www.vk2cot.id.au/CA2022-70683/Adrian-Mueller-brief-comparison-between-two-CTTT-NCAT-cases/>

71. Waratah Strata Management, committee members, Solicitor Adrian Mueller, and even NCAT, refused to provide full evidence of alleged correspondence with Solicitor Adrian Mueller not only to Lot 158, but also Office of legal Services Commissioner and Supreme Court Costs Assessor:

[SP52948-sixth-escalation-of-request-for-access-to-copies-of-Solicitor-Adrian-Mueller-files-and-audio-recordings-of-Hearings-in-case-NCAT-20-33352-30Aug2021](#)

[SUMMARY-NCAT-REGISTRY-file-viewing-in-case-SC-20-33352-on-8Mar2022](#)

Waratah Strata Management undisclosed plan to Supreme Court for premeditated legal costs claims for Solicitor Adrian Mueller confirming that Lot 158 requests were completely ignored on 16 October 2020:

[SP52948-undisclosed-plan-to-Supreme-Court-for-premeditated-legal-costs-claims-for-Solicitor-Adrian-Mueller-confirming-that-Lot-158-requests-were-ignored-16Oct2020](#)

Solicitor Adrian Mueller lied to NCAT in his only three-page submission on 18 January 2021 which was prepared a month

earlier on 14 December 2020 (he was well informed that access to all evidence was provided to committee members and strata manager, but they chose to ignore it since 25 September 2020):

[SP52948-Solicitor-Adrian-Mueller-false-statement-to-NCAT-SC-20-33352-prepared-on-14Dec2020-but-served-to-Tribunal-month-later-on-18Jan2021](#)

Solicitor Adrian Mueller also lied to the Tribunal when asked if all six members of the committee (the Respondent) were valid defendants when he knew that Mr. Moses Levit resigned in November 2020, three months before the Hearing.

Solicitor Adrian Mueller failed to disclose to the Tribunal that he secretly, like in CTTT case SCS 12/32675, tried to force undue influence upon Lot 158 by sending another defamation threat:

- 2.2. The Defendant undertakes to the Plaintiff and will undertake to the Court that he will not make future publications about the Plaintiff, whether by means of the internet or otherwise, except with the prior leave of the Court, which carry the following meanings about the Plaintiff, or meanings which do not differ in substance from those meanings, or which differ only in that they are more specific versions of those meanings:
- (a) the Plaintiff had failed to declare conflicts of interest;
  - (b) the Plaintiff had acted dishonestly;
  - (c) the Plaintiff had knowingly made false statements;
  - (d) the Plaintiff had engaged in criminal conduct;
  - (e) the Plaintiff had behaved unethically;
  - (f) the Plaintiff had engaged in mismanagement;
  - (g) the Plaintiff had conspired to provide false statements;
  - (h) the Plaintiff had engaged in fraud; or
  - (i) the Plaintiff had misappropriated funds.

Solicitor Adrian Mueller failed to disclose that Waratah Strata Management gave the Solicitor instructions to review all Lot 158 files (including website) on 23 October 2020, which Solicitor Adrian Mueller ignored:

[SP52948-alleged-email-from-Waratah-Strata-Management-to-Solicitor-Adrian-Mueller-23Oct2020](#)

From: Robert Crosbie <@waratahstrata.com.au>  
Sent: Friday, 23 October 2020 12:23 PM  
To: Adrian Mueller <@muellers.com.au>  
Subject: SP 52948, 1-15 Fontenoy Road, Macquarie Park

Adrian,

We advise your fee proposal to act for the Owners Corporation in the NCAT Application lodged by Lot 158 has been accepted at last night's AGM.

Attached is a copy of various correspondence that has been received to date in this matter. Also attached is access to a website set up by to provide access to his documentation.

We ask you to notify NCAT that you will now be representing the OC and whether you require any further time to review and respond to the application.

Now that you have been formally appointed, we ask you to respond to our email sent on 7/10/20 regarding the Legal Defences insurance claim.

Regards,

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

Solicitor Adrian Mueller failed to disclose that Waratah Strata Management ignored Lot 158 request to allow all owners to access evidence in NCAT case SC 20/33352, SCS 12/32675, and SCS 12/560460 since 25 September 2020 (this was presumably Mr. Robert Crosbie's approach to "democracy"):

[SP52948-Waratah-Strata-Management-refused-to-provide-owners-with-access-to-evidence-for-NCAT-case-SC-20-33352-on-25Sep2020](#)

Subject: CONFIDENTIAL: NCAT SC 20/33352 website access  
From: SP52948 owner  
To: Stuart Greene, Robert Crosbie  
Date: Fri, 25 Sep 2020 12:13:39 +1000

Not to be shared with any party without disclosure.

No files can be shared with any party without disclosure.

This information can and should be provided by the Secretary of the committee to ALL owners as part of AGM 2020 agenda (safest option is to publish it on Waratah Strata web portal).

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

Login sp52948user

Password <redacted>

For security reasons, and in compliance with laws, access is monitored at all times

72. Apart from \$8,800.00 which insurance company forced SP52948 to repay for Solicitor Adrian Mueller's costs in CTTT case SCS 12/32675 and SCS 12/50460 in 2017 (four years after the event), in 2022 and 2023, owners corporation must repay \$19,498.54 for similar costs in NCAT case SC 20/33352:

Payments for what is alleged to be premeditated fraudulent actions by Solicitor Adrian Mueller for his alleged legal costs in NCAT case SC 20/33352  
Waratah Strata Management is forced to repay insurance company in amount of \$19,758.14  
(soon Police Event will be submitted as a follow-up to Crime Stoppers Event 648467)  
SP52948 committee members and Waratah Strata Management shall be included as accessories

Receipt number	N270127422354	Print receipt	
From account		Transaction date	02/07/22
To Account	Strata Plan 52948 182-222 Macquarie Bank Limited	Amount	\$5,000.00
Transaction description Payment #1 for blackmail by Adrian Mueller CA 2022/70683			

Receipt number	N292724452061	Print receipt	
From account		Transaction date	27/09/22
To Account	Strata Plan 52948 182-222 Macquarie Bank Limited	Amount	\$5,000.00
Transaction description Payment #2 for blackmail by Adrian Mueller CA 2022/70683			

Receipt number	N210334711532	Print receipt	
From account		Transaction date	03/01/23
To Account	Strata Plan 52948 182-222 Macquarie Bank Limited	Amount	\$5,000.00
Transaction description Payment #3 for blackmail by Adrian Mueller CA 2022/70683			

Receipt number	N240335234636	Print receipt	
From account		Transaction date	03/04/23
To Account	Strata Plan 52948 182-222 Macquarie Bank Limited	Amount	\$5,000.00
Transaction description Payment #4 for blackmail by Adrian Mueller CA 2022/70683			

73. BCS Strata Management, Waratah Strata Management, and Solicitor Adrian Mueller have history of destroying evidence or deleting SP52948 strata files. Few examples:

[SP52948-Lot-158-uncovered-strata-files-destroyed-for-CTTT-and-District-Court-legal-files-10Aug2019](#)

[Solicitor-Adrian-Mueller-staff-Carol-Pollard-deleted-SP52948-owner-email-without-reading-SECOND-RESPONSE-owner-v-SP52948-NSW-Civil-and-Administrative-Tribunal-File-No-SC-20\\_33352-Service-of-Costs-Assessment-Application-and-Bill-of-Costs-24Mar2022](#)

[Solicitor-Adrian-Mueller-staff-Carol-Pollard-deleted-SP52948-owner-email-without-reading-OLSC-case-CAS005901-Request-for-Solicitor-Adrian-Mueller-to-respond-with-evidence-9May2022](#)

[Waratah-Strata-Management-Stuart-Greene-deleted-SP52948-owner-email-without-reading-documents-for-delivery-to-respondent-for-NCAT-20-33352-28Feb2023](#) (two and half years after the original email was sent to him!)

74. [Solicitor Adrian Mueller was sole creator of discriminatory Special By-Law "Unreasonable Communications" which was used six times since 2018 to prevent Lot 158 from enforcing proper management of SP52948 complex, whilst, at the same time, ensuring that Solicitor Adrian Mueller obtains excessive personal financial benefits \(estimate: around \\$150,000.00 so far\):](#)



Special By-Law "Unreasonable Communications" that was specifically and exclusively created and prepared by Solicitor Adrian Mueller to prevent Lot 158 from raising any concerns about mismanagement of the complex was directly used four times before NCAT Hearing in case SC 20/33352 and two times after the Hearing (strata managers, committee members and Solicitor Adrian Mueller failed to disclose it to the NSW Fair Trading and Tribunal in NCAT case 20/33352) and by not attending the Hearing influenced the Tribunal to ignore Lot 158 evidence and prevent them from cross-examining the Respondent:

17 The hearing proceeded. Neither party sought an adjournment. [redacted] gave oral evidence expounding his complaints against certain strata committee members; the management of the owners corporation; and Mr Mueller. The owners corporation did not cross examine [redacted]. As discussed previously, the owners corporation did not call any witnesses. Both [redacted] and Mr Mueller then made oral submissions.

28 The Tribunal did not investigate any of the links provided by [redacted], as it would have been clearly procedurally unfair to the owners corporation for the Tribunal to view material which had not been filed and served in the proceedings and which the owners corporation could not see at the hearing as the hearing was conducted by telephone.

**Explicit usage of "Unreasonable Communications" by the Respondent:**

1. **Motions 18 and 19 at AGM on 18 October 2018, with unqualified and baseless threats, preventing owners to have access to Lot 158 Motions and vote on them**
2. **Motion 4 at committee meeting on 2 May 2019**
3. **Waratah Strata Management secret email to Fair Trading NSW on 20 May 2019 (11 days before Lot 158 was scheduled for document search in strata manager's office), confirming that Lot 158 was not allowed to have access to strata files including Strata Roll – email was fully supported by all members of the committee**
4. **Motion 4 at committee meeting on 20 June 2019**
5. **Motion 3 at committee meeting on 29 April 2021, with further false statements and threats against Lot 158**
6. **Motion 6 at committee meeting on 10 February 2022 (notice of meeting not sent to all owners and minutes not published on notice board).**