

29 November 2022

## DISPUTE OF THE COMMISSIONER'S DECISION

1) Stare decisis et non quita movere - Based on analysis of (lack of) actions by the OLSC office, there is strong but firm belief that their decisions in regards to five serious complaints against Solicitor Adrian Mueller are exclusively based on "stand by the thing decided and do not disturb the calm" premise (Stare decisis et non quita movere).

2) OLSC acted as though "double jeopardy" applied in repeated complaints against Solicitor Adrian Mueller and ignored fresh and compelling evidence as:

(a) It was not adduced in the proceedings in which the person was acquitted (OLSC case 41366 in May 2013) and

(b) It could not have been adduced in those proceedings with the exercise of reasonable diligence.

3) OLSC continues to ignore my compelling evidence in spite of it being:

(a) Reliable; and

(b) Substantial; and

(c) In the context of the issues in dispute in the proceedings in which the Solicitor was "acquitted", it is highly probative of the case against Mr. Adrian Mueller.

4) Please provide details on where and when did you address the following paragraphs in my Statutory Declaration dated 21 September 2022 in the previous OLSC cases (OLSC alleges that all items in the Declaration were addressed in the past)?

(a) Paragraph 11.3

(b) Paragraph 12

(c) Paragraph 25

(d) Paragraph 26

(e) Paragraph 27

(f) Paragraph 28

(g) Paragraph 31.11

(h) Paragraph 32

(i) Paragraph 42

(j) Paragraph 44.21

(k) Paragraph 44.22

(l) Paragraph 46

(m) Paragraph 49

(n) Paragraph 50

(o) Paragraph 56.5

(p) Paragraph 57.6

(q) Paragraph 58.2

5) It is noted that OLSC can also forward initial findings to:

- (a) Professional Standards Department at the Law Society for a thorough investigation to take place until the matter is resolved (I already received their confirmation about it).
- (b) NCAT.
- (c) Police. Crime Stoppers Event 648467 (with its predecessor Police Event E65804633).

6) My Statutory Declaration is a very serious document, with legal weight. It is not just a series of statements. It is not my wish to increase the burden of your OLSC work. However, repeated actions of Solicitor Adrian Mueller and his ignorance of laws require a decisive review.

7) I rightfully raise the question of discriminatory behaviour against me as OLSC continuously use “not Solicitor’s client” as one of the avenues to ignore evidence.

(a) Strata Community Australia definition of owners corporation:

*An owners corporation is the legal entity that combines all the lot owners in a strata scheme. Owners corporations (also called strata corporations, corporations, body corporates and strata companies, depending on the state or territory) are automatically created when a plan of subdivision contains common property.*

*The corporation raises funds by levying contributions against all lot owners. The amount that each lot owner contributes to maintenance funds is calculated according to the “lot entitlement” accompanying the strata plan.*

(b) New South Wales Consolidated Acts states:

*“client” includes a person to whom or for whom legal services are provided;*

(c) US Legal definition:

*A client generally means a person, including a public officer, corporation, association or other organization or entity, either public or private, who is rendered services by a service provider, or who consults a service provider with an intention of obtaining services from him/her.*

(d) The Free Dictionary definition:

*CLIENT, practice. One who employs and retains an attorney or counsellor to manage or defend a suit or action in which he is a party, or to advise him about some legal matters.*

(e) It is very clear and unambiguous that all owners in strata plan SP52948, including myself, are part of owners corporation. I am a client of Solicitor Adrian Mueller because owners corporation is my legal entity and part of my levies are directly used to pay for his alleged services. Based on the above, I find the decision of me not being a “client” weak and groundless.

(f) Additionally, OLSC ignored irrefutable evidence that I was legally valid member of the committee in FY 2013, 2015, 2018, 2019, and 2020 (which Solicitor Adrian Mueller knew very well). Refer to whole paragraph 39 of my Statutory Declaration dated 21 September 2022. To be an authorised person of the client (owners corporation), an owner must be financial before the general meeting. Strata Schemes Management Act (SSMA) 2015, Schedule 2, c9(4) states: voting rights cannot be exercised if contributions not paid - member of the strata committee is not entitled to vote on any motion put or proposed to be put to the strata committee if the member was, or was nominated as a member by a member who was, an unfinancial owner of a lot in the strata scheme at the date notice of the meeting was given and the amounts owed by the unfinancial owner were not paid before the meeting. Disclosure of pecuniary interest: if a strata committee member has a monetary or other interest that could raise a conflict of interest in relation to matter to be considered by the committee, this interest must be disclosed at a meeting of the committee. After a member has made this disclosure they must not be present when the particular matter is discussed and they cannot vote on the matter unless the committee resolves otherwise (SSMA 2015, Schedule 2, Part 2, c18). Details about the potential conflict of interest needs to be recorded. That has not happened in SP52948.

8) OLSC is reminded of Solicitor’s duty of care to non-client: *Carey v Freehills* [2013] FCA 954 - Justice Kenny summarised the law in relation to the circumstances in which a solicitor will be found to have a duty of care to a person who has not retained him or her. Some examples:

In *Hill v van Erp* at 167, Brennan CJ said:

*Generally speaking... a solicitor's duty is owed solely to the client subject to the rules and standards of the profession. That is because the solicitor's duty is to exercise professional knowledge and skill in the lawful protection and advancement of the client's interests in the transaction in which the solicitor is retained and that duty cannot be tempered by the existence of a duty to any third person whose interests in the transactions are not coincident with the interests of the client.*

...

*There are, however, circumstances in which a duty of care on the part of a solicitor may arise independently of a retainer. Thus, a duty of care has been said to arise in the context of negligent misstatement causing loss: see Hedley Byrne & Co Ltd v Heller & Partners Ltd [1964] AC 465 and Esanda Finance Corporation Ltd v Peat Marwick Hungerfords (1997) 188 CLR 241, at 252 (Brennan CJ).*

Office of the Legal Services Commissioner wrongfully assumes that my interests differ from their so-called "client's interests". On the contrary. I challenge the Office of the Legal Services Commissioner to prove that my interests differ from those of the "client" (fully understanding that interests of few EC members and the strata manager are not relevant or beneficial to the whole owners corporation)

9) OLSC repeatedly states that it was up to strata committee to accept or refuse Solicitor's advice on Lot 158 Motions at general meetings in 2012, 2014, 2016, 2017, 2018, 2019, and 2022, and at other events. Those statements have no reasonable ground and must be refuted by me:

- (a) Solicitor must not provide a statement which they know to be untrue,
- (b) Solicitor must act with honesty, integrity and candour,
- (c) Solicitor must correct any statement made subsequently discovered to be wrong,
- (d) Solicitor must avoid conflicts of interest (hint: how did Solicitor respond to Waratah Strata Management email when asked about conflict of interest on 21 June 2019 at 10:03 hours?),
- (e) Solicitor must avoid any compromise to their integrity and professional independence,
- (f) Solicitor must act in a client's best interests. By "client" it is certainly not meant to only include selective Executive Committee members (who are not even financial to be on the committee or vote), or the strata manager who won contracts without tenders.

10) We are dealing with the Solicitor's conduct, not the strata committee, so the Solicitor's advice that influenced SP52948 strata committee to make decisions in belief that was the best option was misleading, misconstrued, and with deliberate intention to protect Adrian Mueller's own interests. Office of the Legal Services Commissioner has been approached to deal with the Solicitor's performance, and not offer the conditional statements about duties or responsibilities of the strata committee.

11) We are not simply dealing with "small" or "accidental" unprofessional misconduct of Solicitor Adrian Mueller, but as well his tampering of evidence (for CTTT, OLSC, Police, and District Court). Civil case is easy to prove and so is the criminal case (evidence is offered to all parties). A simple Zoom session with me over one to two hours can easily go through some of evidence that was painstakingly collected over 10 years – so far OLSC refused to do it.

12) OLSC can accept anonymous complaints. According to OLSC's own FAQ, the Legal Services Commissioner may accept an anonymous complaint, if the complaint raises a serious matter and there is sufficient information in the complaint to assist him to conduct an investigation. It is understood that it may be difficult to resolve or investigate an anonymous complaint if one does not provide the contact details or further information is required from them. This raises a very important question: if a serious matter is raised by an anonymous complaint, how would Office of the Legal Services Commissioner make a decision whether the issue is a disciplinary matter or a consumer matter. OLSC statements in responses to me are weak and do not stand the test of scrutiny.

13) Solicitor Adrian Mueller obviously knows about OLSC cases and decides to stay silent (so far). I claim that Solicitor Adrian Mueller is a serial litigant with primary interest in making profit for himself by ignoring the laws, obstructed Police investigators, insurance investigators, and other government officials (Fair Trading NSW, CTTT/NCAT, OLSC, District Court, Supreme Court), perverted the course of justice, falsified evidence, provided statements knowing that were not factual, earned income through proceeds of crime, used threats as standard mode of operation, and has been instrumental in fraudulent activities in CTTT cases SCS 12/32675, SCS 12/50460, SCS 13/50737, NCAT case SC 20/33352, District Court case 13/360456, and Supreme Court Costs Assessment case CA 2022/70683, without owners corporation approval at any legally-convened meetings. He provided falsified data for personal benefits, coerced strata plan to use insurance claims for his alleged work five times, and actively hindered investigations by Police, insurance companies, Fair Trading NSW, CTTT, NCAT, District Court, Supreme Court, and Office of Legal Services Commissioner.

14) Solicitor Adrian Mueller repeatedly conspired to commit various offenses, as a desperate follow-up to forged documents (fabricated evidence) in Statutory Declaration he solely prepared for strata manager Peter Bone on 19 April 2013 which included forged signature on his alleged Standard Costs Agreement dated 25 July 2012 and eight emails that Solicitor admitted "likely not

available” in email to O’Brien Criminal & Civil Solicitors six years later on 14 November 2019 (note that BCS Strata Management, Waratah Strata Management, and nine members of the executive committee failed to produce them and they were never found in any document search since 2012):

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

*Lot 158 has undertaken repeated inspections of the records of the owners corporation. The representatives of the owners corporation consider that all available records of the owners corporation were made available to Lot 158 during those inspections as a result of which if Lot 158 does not have any records that he desires that is because those records are likely not available.*

*Equally importantly, if Lot 158 is truly prepared to confine his communications to matters relating to the maintenance and repair of Lot 158 only, and to cease and desist from disseminating what the representatives of the owners corporation consider to be defamatory material about them, then what is the purpose of Lot 158 pressing for the records to be produced to him?*

*In the circumstances, the representatives of the owners corporation do not consider that there is any merit in Lot 158’s request for those records to be provided to him and they are not prepared to agree to the request.*

14) Even layman can easily confirm the consequences of such actions: the offence of tampering with evidence is contained in section 317 of the Crimes Act 1900, which states that a person who, with intent to mislead any judicial tribunal in any judicial proceeding: (a) suppresses, conceals, destroys, alters or falsifies anything knowing that it is or may be required as evidence in any judicial proceeding, or fabricates false evidence (other than by perjury or suborning perjury), or (c) knowingly makes use of fabricated false evidence is liable to imprisonment for 10 years.

15) Government bodies have duty to investigate the claims, especially since a female member of society (who is completely innocent and was not involved in strata management actions and had never communicated with Solicitor Adrian Mueller directly) suffered so much.

- (a) Breach of section 172 LPUL (NSW) - legal costs must be fair and reasonable,
- (b) Breach of section 178 LPUL (NSW) - non-compliance with disclosure obligations,
- (c) Breach of section 180 LPUL (NSW) - making costs agreements,
- (d) Breach of section 185 LPUL (NSW) - certain costs agreements are void ,
- (e) Misappropriation, caused deficiency in owners corporation SP52948 funds and insurance company’s funds,

- (f) Failure to comply with a requirement under section 371 LPUL (NSW) and failure to assist an investigator in the investigation of a complaint,
- (g) Breach of section 387 LPUL (NSW) - obstruction of investigator,
- (h) Breach of section 388 LPUL (NSW) – obligation of lawyers,
- (i) Breach of sections 3, 4, 5, 6, 7, 12, and 14 of Legal Profession Uniform Law Australian Solicitors’ Conduct Rules 2015 under the LPUL.

16) How can OLSC, even without expertise in forensic investigations like I do, ignore these four versions Standard Costs Agreements, knowing that it took me six years to obtain this evidence which Solicitor Adrian Mueller was fully aware in 2012 and 2013 but failed to disclose to Fair Trading NSW, CTTT, and OLSC (and later Police)?

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

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

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

I. Authorisation to Transfer Money from Trust Account

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

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

Client \_\_\_\_\_ Date \_\_\_\_\_

*A S Ilhalla* 16 July 2012

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

**Solicitor’s submission to CTTT on 29 January 2013**

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

I. Authorisation to Transfer Money from Trust Account

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

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

Client \_\_\_\_\_ Date \_\_\_\_\_

*A S Ilhalla* 16 July 2012

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

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

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

I. Authorisation to Transfer Money from Trust Account

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

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

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

*A S Ilhalla* 16 July 2012

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

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

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

I. Authorisation to Transfer Money from Trust Account

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

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

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

*A S Ilhalla* 16 July 2012

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

OLSC case and brief extracts from decisions	SP52948 brief comments by SP52948 Lot 158 owner
<p><b>41366 in May 2013 (OLSC response was four pages long, with additional 25 pages of alleged Solicitor's responses which did not contain a single reference to CTTT case SCS 12/32675 and SCS 12/50460)</b></p> <p><i>Your complaint, along with the 92 sleeves or supporting documents provided with it, has now been assessed.</i></p> <p><i>You are engaged in an ongoing dispute with the Owners' Corporation (OC) of the strata scheme that manages the building where you live. Relevant to your complaint are three Consumer, Trader and Tenancy Tribunal (CTTT) proceedings, all initiated by you, being proceeding numbers 12/05845, 12/32675 and 12/50460.</i></p> <p><i>The effects of a failure to disclose costs (or, arguably, the failure to adequately disclose) is that a practitioner cannot initiate proceedings to recover those for a client prior to having them assessed.</i></p> <p><i>In this case, the costs have been paid without complaint by the OC. I will remind Mr Mueller of his costs disclosure obligations in this respect, but do not intend to take further action.</i></p> <p><i>You have alleged that Mr Mueller did not provide revised estimate in CTTT 12/32675 where his costs had substantially increased. You note the initial estimate of \$11,500 and go on to state that the costs ended up being \$31,209.24.</i></p> <p><i>I note that the OC have not disputed these costs either. That aside, Mr. Mueller's submissions as to costs filed in the CTTT claims a total amount of \$15,580. I do not know how you arrived at the greater figure.</i></p> <p><i>I acknowledge that you are a member of the OC but, given your role in initiating various proceedings against it, it is clear that Mr Mueller's client. Mr Mueller was entitled to act on the belief that he was instructed, as clearly evidenced by the acceptance of the 'Fee Proposal' and various costs agreement.</i></p>	<p><b>SP52948 brief comments by SP52948 Lot 158 owner</b></p> <p>1) Solicitor Adrian Mueller failed to provide any evidence for his involvement in CTTT cases SCS 12/32675 and SCS 12/50460 and yet OLSC reached decisions by ignoring my evidence.</p> <p>2) Solicitor Adrian Mueller was accessory to creation of four versions of his Standard Costs Agreement in CTTT case SCS 12/32675, of which three were falsified (making his engagement completely illegal and void) - such evidence was belatedly produced to OLSC in 2019 (it took me six years to find the evidence) and onwards.</p> <p>3) At Annual General Meeting on 17 October 2012, which failed to comply with strata regulations where strata manager and committee members did not allow owners to have any information about it, I received 14 votes for election on the committee, whilst out of nine other candidates two were UNFINANCIAL to vote or be elected on the committee due to unpaid levies: Mr. Stan Pogorelsky and Mr. Moses Levitt.</p> <p>4) I also held three proxy authorisations for period of 12 months, which meant that in period from 17 October 2012 to next general meeting on 23 October 2013, I was legal representative of owners corporation.</p> <p>5) OLSC ignored the fact that Solicitor Adrian Mueller was fully aware of four fraudulent insurance claims in amount of \$24,919.31 for non-existent event ("Defence of Lot 3"), for his actual work in CTTT cases SCS 12/32675 and SCS 12/50460 whilst illegally representing owners corporation.</p> <p>6) There is no evidence of OLSC's alleged "reminder to Solicitor Adrian Mueller of his costs disclosure obligations", so it is highly questionable that such disciplinary action by OLSC ever occurred.</p>

OLSC case and brief extracts from decisions	SP52948 brief comments by SP52948 Lot 158 owner
<p><b>56561 on 24 January 2019 (OLSC response was four and a half pages long)</b></p> <p><i>I understand that for some time now you have had an ongoing dispute with the Strata Committee in regarding their conduct. In response to this, you have initiated multiple applications though the Consumer, Trader, and Tenancy Tribunal (CTTT) to address these grievances. It appears that the last of these proceedings finalised in 2013 and you were unsuccessful on all applications. It is my understanding that Mr Mueller was instructed to represent the Strata Committee in each of the proceedings before the CTTT. I note that you have previously lodged a complaint with this Office about Mr Mueller (reference 41366) regarding his conduct in connection to these proceedings. The complaint was closed on 31 May 2013 with no action taken against Mr Mueller.</i></p> <p><i>It appears from your current complaint that your dispute with the Strata Committee has not resolved. I understand that you continue to express concerns in relation to their conduct and have reported their actions to the Police, who you say have commenced an investigation.</i></p> <p><i>It is my understanding that your present complaint has arisen as a result of a police investigation that involves multiple persons including Mr. Mueller. You say the police have informed you that they have special interest in eight alleged emails that re missing from all strata files and are of critical importance to the investigation. You say that police have contacted Mr Mueller to obtain these emails however he has reported that he is unable to locate them.</i></p> <p><i>As your complaint is about Mr Mueller’s conduct, and Mr. Mueller is not your lawyer, your complaint cannot be categorised as consume matter. For this Office to consider your complaint as a disciplinary matter, the conduct the subject of your complaint must, if it could be proved, amount to either unsatisfactory professional conduct or professional misconduct.</i></p> <p><i>Having considered the allegations that you make I am not satisfied that, even if they were established, they would amount to either unsatisfactory professional conduct or professional misconduct.</i></p> <p><i>You allege Mr Mueller has acted in breach of Rules 14.1.1, 14.1.2, and 14.2 of the Legal Profession Uniform Law Australian Solicitor’s Conduct Rules in that he has failed to produce certain documents to the Police and if these particular documents have been lost or destroyed, has failed to retain documents related to his file fo the period fo seven years.</i></p> <p><i>The rule that you refer to above is titled ‘Client documents’. It provides that a solicitor must retain documents for a period of seven years so that documents may be provided to a client in the event that the client, or a persons authorised by the client, requests that they be provided.</i></p> <p><i>You are not a client of Mr Mueller, nor are you an ‘authorised person’ of the client. Accordingly, I am not satisfied that there has been any relevant breach of that rule. I note that it is open to the Strata Committee, as Mr Mueller’s client, to make a complaint to this Office if they believe that Mr Mueller has refused to provide client documents upon request. It would equally be open to the NSW Police to raise any concerns they may hold directly with my Office.</i></p> <p><i>Even if it could be established that Mr Mueller has inadvertently misplaced or lost the documents in question, it is unlikely that an administrative error such as this would in itself result in disciplinary action by this Office. It is also entirely speculative to suggest that Mr Mueller has deliberately destroyed the emails in question.</i></p> <p><i>You complaint about the legal advice provided by Mr Mueller in relation to a number of motions you and your wife submitted for the Annual General Meetings in 2016, 2017, and 2018. You say, after receipt of Mr Mueller’s advice, the Strata Committee determined that a number of your motions were disallowed from inclusion on the agenda.</i></p> <p><i>I do not consider that Mr Mueller has acted inappropriately by providing legal advice to his client regarding whether the motions you had put forward were permitted to be put on the agenda by the Strata Committee. I note it was a matter for the Strata Committee whether they decided to accept the advice provided by Mr Mueller. I do not have the power, nor it is appropriate for me to determine or comment on disputes in relation to strata</i></p>	<p>7) OLSC failed to co-operate in Police Event E65804633.</p> <p>8) Solicitor Adrian Mueller failed to co-operate in Police Event E65804633.</p> <p>9) Solicitor Adrian Mueller provided statement to Police that he could not find copies of eight emails as listed in his Statutory Declaration for strata manager Peter Bone on 19 April 2013, knowing that such emails never existed in the first place.</p> <p>10) OLSC failed to provide any evidence that they contacted the lawyer in the first instance.</p> <p>11) OLSC ignored irrefutable evidence that I was, legally, valid member of the Strata Committee in all years since 2012.</p> <p>12) OLSC failed to establish the fact that Solicitor Adrian Mueller committed forgery (falsified evidence in Statutory Declaration he solely prepared for strata manager Mr. Peter Bone on 19 April 2013) and lied to OLSC and CTTT about his engagement in CTTT cases SCS 12/32675 and SCS 12/50460.</p> <p>13) OLSC failed to establish the fact that eight emails which Solicitor Adrian Mueller listed in his Statutory Declaration on 19 April 2013 were forgeries and they did not exist.</p> <p>14) OLSC failed to establish the fact that Solicitor Adrian Mueller presented Mr. Peter Bone’s Affidavit to District Court in case 2013/360456, knowing that it contained false statements about my access to strata documents (OLSC had access to emails confirming it and invoices for paid document search).</p> <p>15) OLSC refused to review my evidence or ask for further information.</p> <p>16) OLSC did not accept my offer to present information in person.</p> <p>17) There is no evidence that OLSC interviewed Solicitor Adrian Mueller or obtained his statements.</p> <p>18) OLSC failed to analyse my voluminous evidence or request access to any additional files.</p> <p>19) Owners were prevented from having information about Solicitor Adrian Mueller, so how could they have dealt with issues they did not know about!?</p> <p>20) OLSC ignored evidence that Solicitor Adrian Mueller acted to protect own interests at all costs.</p> <p>21) OLSC ignored the requirement that “legal practitioner must take all necessary steps to correct any false or misleading statement ... as soon as practicable after the practitioner becomes aware that the statement was false or misleading”.</p> <p>22) OLSC ignored the requirements that “any conduct undertaken by the practitioner which is misleading or deceptive or likely to mislead or deceive could result in a contravention of legislation such as the Competition and Consumer Act (Cth) and/or the Fair Trading Act. In that event, not only may the client be exposed to action by the other party who relied upon such conduct to conclude the settlement, but so too may the practitioner (as having been knowingly concerned in the contravention)”.</p> <p>23) OLSC failed to understand that “the legal practitioner is entitled to seek to persuade, but not to coerce, the client to accept and act on that opinion in the client's interests”.</p>

<b>OLSC case and brief extracts from decisions</b>	<b>SP52948 brief comments by SP52948 Lot 158 owner</b>
<p><i>or civil law.</i></p> <p><i>You allege Mr Mueller failed to provide costs disclosure to the Strata Committee on 5 September 2016 for work performed reviewing the motions you put for the Annual General Meeting in 2016.</i></p> <p><i>In the circumstances, noting that you are not a client of Mr Mueller's and that the Strata Committee paid Mr Mueller's invoice without complaint, I do not not consider that even if established, this allegation would amount to unsatisfactory professional conduct. I note that it is open to the Strata Committee to make a complaint to this Office if they are of the view that Mr Mueller has failed to adequately disclose his legal costs.</i></p>	



OLSC case and brief extracts from decisions	SP52948 brief comments by SP52948 Lot 158 owner
<p><b>CAS005901 on 29 November 2021 (OLSC response was three and a half pages long)</b></p> <p><i>You complain about the conduct of Mr Mueller as the representative for the Strata Committee that manages the building in which you own a property. I understand that for some time now you have had an ongoing dispute with the Strata Committee regarding their conduct. In response to this, you have initiated multiple applications through the Consumer, Trader and Tenancy Tribunal (CTTT) to address these grievances. It appears that you were unsuccessful on all applications and were ordered to pay the Strata Committee's costs. It is my understanding that Mr Mueller was instructed to represent the Strata Committee in each of the proceedings. It appears he continues to provide advice to the Strata Committee in response to your ongoing correspondence.</i></p> <p><i>I note that you have previously lodged multiple complaints to this Office about Mr Mueller (file reference 41366 and 56861) regarding his conduct in connection to these proceedings. The complaints were closed with no action taken against Mr Mueller.</i></p> <p><i>Please note that in order to investigate a complaint, my Office requires some degree of evidence to support the allegations raised. This usually requires more than suspicion or speculation.</i></p> <p><i>In my view, you have not provided sufficient evidence to my Office to substantiate your allegations. I am not persuaded that Mr Mueller has acted otherwise than within the ambit of his client's instructions and/or that he has contravened any of his professional obligations including that he 'coerced' any individual.</i></p> <p><i>I understand that you are disputing that Mr Mueller was properly retained and accordingly 'falsely claimed to the CTTT/NCAT that he legally represented the Owners Corporation'. I note that your reasoning is complex and appears to rely on the argument that the members of the Strata Committee were not properly appointed.</i></p> <p><i>Please note that it is not for my Office to determine whether the members of the Strata Committee were properly appointed. That is the role of a Court. If you remain of this view, you may wish to seek legal advice regarding the validity of your claims.</i></p> <p><i>Even if it can be established that the Strata Committee, at the time of Mr Mueller's engagement, did not have the relevant authority to retain his services, there is no evidence to suggest that Mr Mueller had knowledge of this. In my view, it was reasonable for Mr Mueller to have formed the view that the Strata Committee had the power and authority to retain his services and agree to represent them on this basis.</i></p> <p><i>Accordingly, I am unable to form the view that Mr Mueller misled the CTTT/NCAT or failed to follow Court Orders in relation to this.</i></p> <p><i>Finally, I note that your other allegations including allegations involving access to documents and Mr Mueller's costs disclosure have already been addressed in your earlier complaints to this Office.</i></p> <p><i>Accordingly, I do not consider that there is any basis to take your complaint any further.</i></p>	<p>23. OLSC failed to co-operate in Police Event E65804633.</p> <p>24. OLSC refused to review my evidence or ask for further information.</p> <p>25. OLSC did not accept my offer to present information in person.</p> <p>26. There is no evidence that OLSC interviewed Solicitor Adrian Mueller or obtained his statements.</p> <p>27. OLSC had full evidence that Solicitor Adrian Mueller forged evidence and statements in his Statutory Declaration for strata manager Peter Bone on 19 April 2013.</p> <p>28. OLSC had written admission by Solicitor Adrian Mueller (given to O'Brien Criminal &amp; Civil Solicitors on 14 November 2019) that eight alleged emails in his Statutory Declaration for strata manager Peter Bone on 19 April 2013 "likely not available".</p> <p>29. OLSC ignored evidence that Solicitor Adrian Mueller acted to protect own interests at all costs.</p> <p>30. OLSC ignored the requirement that "legal practitioner must take all necessary steps to correct any false or misleading statement ... as soon as practicable after the practitioner becomes aware that the statement was false or misleading".</p> <p>31. OLSC ignored the requirements that "any conduct undertaken by the practitioner which is misleading or deceptive or likely to mislead or deceive could result in a contravention of legislation such as the Competition and Consumer Act (Cth) and/or the Fair Trading Act. In that event, not only may the client be exposed to action by the other party who relied upon such conduct to conclude the settlement, but so too may the practitioner (as having been knowingly concerned in the contravention)".</p> <p>32. OLSC failed to understand that "the legal practitioner is entitled to seek to persuade, but not to coerce, the client to accept and act on that opinion in the client's interests".</p>

<b>OLSC case and brief extracts from decisions</b>	<b>SP52948 brief comments by SP52948 Lot 158 owner</b>
<p><b>CAS006791 on 16 February 2022 (OLSC response was three pages long)</b></p> <p><i>You complain about the conduct of Mr Mueller as the representative for the Strata Committee that manages the building in which you reside. I understand that for some time now you and your husband have been involved in an ongoing dispute with the Strata Committee regarding their conduct. The dispute has escalated many times to the Consumer, Trader and Tenancy Tribunal (CTTT) as well as the District Court of NSW. It appears that you/your husband were unsuccessful on all applications and were ordered to pay the Strata Committee's costs. It is my understanding that Mr Mueller acted on behalf of the Strata Committee in each of the proceedings and continues to provide advice to the Strata Committee in response to your husband's ongoing correspondence.</i></p> <p><i>I note that your husband has previously lodged multiple complaints to this Office about Mr Mueller (file reference 41366, 56861 and CAS005901) regarding his conduct in connection to these proceedings.</i></p> <p><i>As Mr Mueller is not your lawyer, your complaint cannot be characterised and dealt with as a consumer matter. That means that this Office does not have the power to attempt to informally resolve the complaint and/or exercise any of our powers in this regard. For this Office to consider your complaint as a disciplinary matter, the conduct the subject of your complaint must, if it could be proved, amount to either unsatisfactory professional conduct or professional misconduct.</i></p> <p><i>Having reviewed the complaint and the information before me, I have decided to close the complaint without taking further action for the reasons outlined below.</i></p> <p><i>As I explain the reasons for my decision, please be advised that while I do not propose to address every submission made by you in detail, please be assured that I have carefully considered them in reaching my decision.</i></p> <p><i>In my view, the material provided in your complaint simply reiterates the same concerns expressed by your husband in the previous complaints to my office. As I consider that the substance of your complaint has already been determined by my Office, I do not consider that there is any basis to take your complaint further.</i></p> <p><i>I understand that you may be disappointed with my decision to close the complaint; however I trust that this letter explains the reasons for it.</i></p>	<p>33. OLSC failed to co-operate in Crime Stoppers submission 648467.</p> <p>34. OLSC refused to review my wife's evidence or ask for further information.</p> <p>35. OLSC did not accept offer to present information in person.</p> <p>36. OLSC ignored evidence that Solicitor Adrian Mueller acted to protect own interests at all costs.</p> <p>37. There is no evidence that OLSC interviewed Solicitor Adrian Mueller or obtained his statements.</p> <p>38. OLSC had full evidence that Solicitor Adrian Mueller forged evidence and statements in his Statutory Declaration for strata manager Peter Bone on 19 April 2013.</p> <p>39. OLSC had written admission by Solicitor Adrian Mueller (given to O'Brien Criminal &amp; Civil Solicitors on 14 November 2019) that eight alleged emails in his Statutory Declaration for strata manager Peter Bone on 19 April 2013 "likely not available".</p> <p>40. OLSC ignored the requirement that "legal practitioner must take all necessary steps to correct any false or misleading statement ... as soon as practicable after the practitioner becomes aware that the statement was false or misleading".</p> <p>41. OLSC ignored the requirements that "any conduct undertaken by the practitioner which is misleading or deceptive or likely to mislead or deceive could result in a contravention of legislation such as the Competition and Consumer Act (Cth) and/or the Fair Trading Act. In that event, not only may the client be exposed to action by the other party who relied upon such conduct to conclude the settlement, but so too may the practitioner (as having been knowingly concerned in the contravention)".</p> <p>42. OLSC failed to understand that "the legal practitioner is entitled to seek to persuade, but not to coerce, the client to accept and act on that opinion in the client's interests".</p>

OLSC case and brief extracts from decisions	SP52948 brief comments by SP52948 Lot 158 owner
<p><b>CAS009763 on 21 September 2022 (OLSC response was one page long)</b>  <i>Your complaint has been considered and I have decided to close it pursuant to section 277(1)(d) of the LPUL on the basis that the subject matter of the complaint has already been investigated by my Office.</i>  <i>I note that you have previously made multiple complaints to my office about Mr Mueller (most recently file reference 41366, 56861 and CAS005901) regarding his conduct in connection to your ongoing dispute with the Strata Committee that manages the building in which you own a property.</i>  <i>Your current complaint appears to reiterate the same concerns that you have raised in your previous complaints to my Office. While you may disagree, I consider that my Office has adequately investigated and responded to your complaints. I reiterate my view that there is no basis for my Office to take your concerns about Mr Mueller any further.</i>  <i>Any further correspondence from you will be reviewed, but unless it provides a basis for further investigation by my Office it will be filed without response.</i></p>	<p>43. OLSC failed to co-operate in Crime Stoppers submission 648467.  44. OLSC refused to review my evidence or ask for further information.  45. OLSC did not accept offer to present information in person.  46. OLSC ignored evidence that Solicitor Adrian Mueller acted to protect own interests at all costs.  47. There is no evidence that OLSC interviewed Solicitor Adrian Mueller or obtained his statements.  48. OLSC had full evidence that Solicitor Adrian Mueller forged evidence and statements in his Statutory Declaration for strata manager Peter Bone on 19 April 2013.  49. OLSC had written admission by Solicitor Adrian Mueller (given to O'Brien Criminal &amp; Civil Solicitors on 14 November 2019) that eight alleged emails in his Statutory Declaration for strata manager Peter Bone on 19 April 2013 "likely not available".  50. OLSC ignored the requirement that "legal practitioner must take all necessary steps to correct any false or misleading statement ... as soon as practicable after the practitioner becomes aware that the statement was false or misleading".  51. OLSC ignored the requirements that "any conduct undertaken by the practitioner which is misleading or deceptive or likely to mislead or deceive could result in a contravention of legislation such as the Competition and Consumer Act (Cth) and/or the Fair Trading Act. In that event, not only may the client be exposed to action by the other party who relied upon such conduct to conclude the settlement, but so too may the practitioner (as having been knowingly concerned in the contravention)".  52. OLSC failed to understand that "the legal practitioner is entitled to seek to persuade, but not to coerce, the client to accept and act on that opinion in the client's interests".</p>