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Question of Law - Tribunal ignored evidence of Solicitor Adrian Mueller failing to comply with CTTT/NCAT orders for the Hearings six times in period from 2012 to 2021, incurring significant costs to Applicant, owners corporation, insurance industry, and the Respondent, whilst not being authorised to represent owners corporation through any legally-compliant general meetings or signed Standard Costs Agreements

All references in the document (listed below at secure website) have been provided to SP52948, Tribunal, BCS Strata Management, and Waratah Strata Management. The Respondent and NCAT were fully informed and had evidence that since 2012, Solicitor Adrian Mueller failed to comply with CTTT orders for the Hearings six times.

1. CTTT Directions Hearing in file SCS 12/32675 on 8 August 2012
2. Solicitor Adrian Mueller letter to CTTT trying to dismiss SCS 12/32675 on 5 September 2012
3. Instead on providing evidence to counter Lot 158 claims and provide evidence to CTTT, Solicitor Adrian Mueller sent letter with defamation threats dated 6 September 2012 which arrived on 10 September 2012
4. Solicitor Adrian Mueller failed to comply with Directions Hearing orders in file SCS 12/32675 on 13 September 2012 (deadline was 12 September 2012)
5. CTTT sent reminder to Solicitor Adrian Mueller about non-compliance with Directions Hearing orders in file SCS 12/32675 on 17 September 2012
6. CTTT changed Solicitor Directions Hearing orders for Solicitor Adrian Mueller in file SCS 12/32675 on 26 September 2012 (extended to 8 October 2012)
7. CTTT sent another reminder to Solicitor Adrian Mueller about non-compliance with Directions Hearing orders in file SCS 12/32675 on 9 October 2012 (deadline was 8 October 2012)
8. 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:

- a) 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
- b) keep the application and notice so displayed until the expiration of the time specified in the notice for the making of submissions, and
- c) 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 Komban
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.

9. Lot 158 sent another updated request to Solicitor Adrian Mueller on 1 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.

- 10.** On 17 May 2013 Lot 158 sent warning to BCS Strata Management with owners' votes against Solicitor Adrian Mueller's engagement
- 11.** Some of the owners' emails:
SP52948 owners against legal costs ignored by executive committee and BCS Strata Management in May 2013
- 12.** 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
- 13.** On 3 June 2013 BCS Strata Management wrote to single SP52948 committee member, explaining their attempt to delay their responses in case SCS 12/50460 until October 2013
- 14.** On 2 September 2013 CTTT reached decision in case SCS 12/50460
- 15.** On 2 September 2013 committee confirmed to BCS Strata Management that Solicitor Adrian Mueller did not need to be notified about outcome of CTTT case 12/50460 because he was not engaged to legally represent owners corporation
- 16.** On 9 September 2013 committee member instructed BCS Strata Management to make Lot 158 document search as inconvenient as possible
- 17.** Lot 158 document viewing at BCS Strata Management including strata manager's own written notes on 17 October 2013 (Outcome on 17 October 2013 - Lot 158 refused access to files for CTTT SCS 12/32675, SCS 12/50450, SCS 12/50460, and Annual General Meeting (AGM))
- 18.** BCS Strata Management secretly engaged Solicitor Adrian Mueller to manipulate and misquote Lot 158's Motions at AGM 2014
- 19.** Waratah Strata Management secretly engaged Solicitor Adrian Mueller to prevent Lot 158 from submitting Motions at AGM 2017
- 20.** Solicitor Adrian Mueller provided advice how to ignore Lot 158's Motions for AGM on 23 August 2017 with details how to achieve it:
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
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.
- 21.** Waratah Strata Management followed Solicitor Adrian Mueller's advice again at AGM 2018 and disallowed all Lot 158 Motions, including ones related to fraud and false statements in Police Event E65804633
- 22.** 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
- 23.** Applicant 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
- 24.** Under pressure from the Applicant 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 complaint with Office of Legal Services Commissioner

- 25.** Applicant's 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
- 26.** Waratah Strata Management 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
- 27.** Solicitor Adrian Mueller letter to O'Brien Criminal & Legal Solicitors on 14 November 2019, refusing access to strata files for Lot 158
- 28.** Applicant's complaint about Respondent's non-compliance with Directions Hearing to NCAT on 29 November 2020
- 29.** Applicant's response to belated submission by Solicitor Adrian Mueller on 1 February 2021