

Subject: REPEATED FAILURE TO COMPLY - NCAT 2024/00454780 Bannermans Lawyers
continuous misconduct as of 23 July 2025
From: SP52948 Lot 158 owner
Date: 23/7/25, 09:20
To: Ishita Rao, Jennifer Pham
CC: Joseph Bannerman, Arina Sian
CC: Stan Pogorelsky, Joe Spatola, Genelle Godbee, Ramesh Kamini, Alex Tomasko

Good morning,

As promised at the Hearing yesterday, this is a follow up to our conversation. Bcc-ed to committee members and strata agency.

You were genuinely surprised to see that the Senior Member continued to collect evidence against Mr. Pogorelsky and the strata manager. You believed that those two orders were "closed and dusted" at Hearing on 22 April 2025. How wrong such assumption it was.

This is SEVENTH email directly addressed to Bannermans Lawyers, without ever receiving a response

Applicant's Paragraph 14.20.4 with email dated 8 November 2024 (warning before AGM on 28 November 2024)

Applicant's Paragraph 14.20.4 with email dated 29 November 2024 (warning after AGM on 28 November 2024)

Applicant's Paragraph 14.20.4 with email dated 15 January 2025 (after first Directions Hearing)

Applicant's Paragraph 11.14 with email dated 20 February 2025 (after second Directions Hearing)

Applicant's Paragraph 11.15 with email dated 23 April 2025 (day after the Hearing)

Applicant's email on 24 April 2025

1) You and your colleague appeared at the Hearing completely unprepared, and had no defence against my folders submitted on 7 July 2025. This was your fourth NCAT appearance without proof of legal representation.

On the day of the Hearing on 22 July 2025, negative balance (deficit) in Admin Fund was - \$287,409.37 whilst legal costs reached \$37,493.28 without any approval of the owners corporation of even knowledge of such terrible financial problems.

You initially tried to ignore my folders, but, under pressure from the Senior Member and myself, you had to admit that you had received the folders in electronic form on 9 July 2025, which meant you had 13 days to take some action to address my statements and evidence. Options were:

- Seek leave to consider it,
- Provide proof of your legal representation,
- Provide proof of committee meetings on 6 January and 6 February 2025, and adjourned EGM on 27 May 2025 were compliant with the laws.
- Provide evidence to refute my claims.

You did none of the above and deliberately wasted court and my time.

2) As you are aware, you were subject of two investigations.

- Office of Legal Services Commissioner's case CAS022167 for Solicitor Ms. Jennifer Pham misconduct.
- Case PSD2025_61759 with The Law Society of NSW for Solicitor Ms. Jennifer Pham misconduct, as referred by the Office of Legal Services Commissioner

From my correspondence with them, it appears you did not offer any assistance to them.

3) On 30 June 2025, The Law Society of NSW reached the decision they did not have powers to take actions against Ms. Pham, and recommended matters be dealt by NCAT and/or through complaint with NSW Commissioner, whilst not addressing almost all of evidence of misconduct by Ms. Pham.

4) In the meantime, OLSC advised me that I can submit my request for a Commissioner's review by 22 August 2025, or initiate a new case.

5) In my latest folders in "PART 5: Request to revoke leave for legal representation by Bannermans Lawyers as per Civil and Administrative Tribunal Act 2013 Section 45 3(b)", I provided evidence why your misconduct is not only disgraceful but also fails to comply with many rules for conducts of legal practitioners:

- In Bannerman Lawyers Standard Costs Agreement paragraph 16 (submitted in witness statement of Mr. Stan Pogorelsky on page 862), four methods were listed for acceptance of their offer:

signing and returning a copy of their document; and/or
payment of money into their trust account for any anticipated costs; and/or
providing instructions to Mr. David Bannerman or someone else in his office after receiving his document; and/or
oral acceptance.

None of the above were provided to the owners corporation, the Applicant, and the Tribunal as of 23 July 2025.

- On page 3 of Mr. David Bannerman's alleged email to strata manager Mr. Alex Tomasko on 23 December 2024 (submitted in witness statement of Mr. Stan Pogorelsky on page 853), there is a list of engagement document with "any of the readily available information" that is required for their legal engagement:

Signed costs agreement
minutes resolving the suggestions motion above
strata plan
common property certificate of title or title search
any registered by-laws
contact details of the owner
witness contact details (to obtain a witness statement)
any other relevant document or correspondence.

None of the above were provided to the owners corporation, the Applicant, and the Tribunal as of 23 July 2025.

- After appearing at the second Directions Hearing on 20 February 2025 (first one was on 15 January 2025, where the Tribunal member asked Bannermans Lawyer to produce evidence of their retainer at the adjourned (second) Directions Hearing – evidence in certified audio recording obtained by the Applicant in file CIVIC17-1_20250115-1417_01db6758331ec880.mp3), Bannermans Lawyers continued to hide evidence they were legally engaged and refused to provide copy of signed Standard Costs Agreement, which was a primary prerequisite for their work on behalf of SP52948.
- Bannermans Lawyers were aware of weak defense for declaring committee meetings on 6 January and 6 February 2025 valid, and they failed to notify the Tribunal at the Hearing on 22 April 2025 that SP52948 rushed through process to run the electronic only pre-meeting voting Extraordinary General Meeting on 1 May 2025.

Committee meetings on 6 January and 6 February 2025 and EGM on 27 May 2025 were non-compliant, void, and invalid in its entirety - doctrine of approbate and reprobate, and legal principles of ratification. You failed to refute my claims and evidence.

- Bannermans Lawyers Standard Costs Agreement (submitted in witness statement of Mr. Stan Pogorelsky on page 855) did not include attendance of more than one directions hearing, so Ms. Pham's appearance on 20 February 2025 was not covered in the agreement, let alone the fact that she did not have any evidence of approval for legal representation.
- Bannermans Lawyers Standard Costs Agreement (submitted in witness statement of Mr. Stan Pogorelsky on page 856) listed estimates of costs as \$13,000.00 (GST excl).
- After appearing at the Hearing on 22 April 2025 where Bannermans Lawyer still failed to produce evidence of their retainer, Bannermans Lawyers failed to respond to Applicant's email since 23 and 24 April 2025.
- Lot 79 major renovations approved without disclosure they already started them without general meeting and registration of Special By-Law and Bannermans

Lawyers are directly involved in this fraudulent activity. Lot 79 (major renovations started without owners corporation meeting approval, including noise on 3 November 2024; major renovations approved at SP52948 Annual General Meeting dated 28 November 2024, as organised by Waratah Strata Management and directly orchestrated by Bannermans Lawyers, did not satisfy requirements of Strata Schemes Management Act 2015 (SSMA); not registered in Consolidated By-Laws, withholding information from and misleading the Registrar General of the NSW Land Registry Services.

Through this email you are requested to

- a) Provide electronic copies of your correspondence since Bannermans Lawyers were allegedly contacted to get involved with this NCAT case.
- b) Provide electronic copy of your signed Standard Costs Agreement.
- c) Provide electronic copies of all invoices (including the one that you will probably issue for yesterday's Hearing promptly).
- d) An example of where privilege was excluded is found in Aucare Dairy Pty Ltd v Huang [2017] FCA 746. The Federal Court found that, as there was a strong case that the respondents had engaged in fraudulent conduct, communications with their lawyers in the course of that conduct were not privileged.

If you decide to ignore my requests (I will give you five days to comply)

1) This morning I have already issued official request to Waratah Strata Management for inspection of SP52948 strata records as per my Document 2: NCAT-2024-00454780-001-strata-documents-SSMA-2015-Sec188. The Tribunal, in attempt to simplify the case, did not address it (citing time constraints), which is a serious issue. NCAT is required to provide all parties with a reasonable opportunity to present their case. This includes providing information about the process, giving them a chance to present evidence and make submissions, and ensuring they understand the decision made.

In case Waratah Strata Management decides to ignore my request, I will seek immediate leave through NCAT to enforce my right for document search before any further Hearing or action occurs. Bank statements for the last seven years (and other documents) must be provided to me, whether somebody likes it or not.

2) By or on 22 August 2025, I will either open a new case with the Office of Legal Services Commissioner, or seek a review by the Commissioner in the current OLSC case.

Regards and thank you,

On 24/4/25 07:11, SP52948 Lot 158 owner wrote:

Good morning,

You failed to respond, with special emphasis that negative balance (deficit) in Admin Fund is -\$374,482.58 and \$26,388.87 was spent on legal fees.

The following actions already followed:

1) Flex Insurance was notified (with all information as per attachments and other evidence in relation to poor management of the complex, including video and photos for long-term fire safety issues and items in Lot 158).

In 2017, Mr. Stan Pogorelsky, tried to threaten me not to speak to the insurance company, and when he failed, I helped CHU Insurance to recover \$8,800.00 from SP52948 for Solicitor Adrian Mueller's legal fees he had allegedly incurred in 2012/2013.

2) How poorly your evidence was prepared shows just one of the facts - in attachment "NCAT-2024-00454780-non-compliant-meetings-in-SP52948-evidence.pdf". Your own evidence is against you.

2) NSW Fair Trading was notified.

3) Submission to Office of Legal Services Commissioner will be done over the long weekend.

Have a pleasant long weekend.

Regards,

On 23/4/25 06:59, SP52948 Lot 158 owner wrote:

Good morning,

So far, Bannermans Lawyers failed to produce signed Standard Costs Agreement three times at NCAT hearings:

15 January 2025, first Directions Hearing

20 February 2025, second Directions Hearing

22 April 2025, Hearing

Please provide this information by the end of business hours today:

a) Signed version of your Standard Costs Agreement as you would have received from SP52948 representatives.

b) Date and time when you received the signed version of your Standard Costs Agreement.

For the record, your involvement in alleged major renovations for Lot 79 which started before approval at general meeting, and without updates to Consolidated By-Laws, are still ongoing, in its sixth month.

Thank you.

—Attachments:—

SP52948_fee proposal_04.11.11.pdf

716 KB