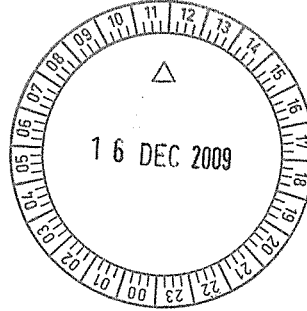


Stephenson, Cassandra**PUBLIC**

SUB 025

From: William Kent O'Brien [
Sent: Wednesday, 16 December 2009 10:04 AM
To: Stephenson, Cassandra
Cc:
Subject: Standing Inquiry into WA Strata Manager



The Chairman
 Standing Committee on Public Administration
 Legislative Council
 Parliament House
 PERTH WA 6000

Dear Mr M. Trenorden MLC

Inquiry into Western Australian Strata Managers

I ask that your committee please accept the following submission, made on my own behalf with a long term background as a CPA in public practise, a JP with extensive bench experience, and a council member on several strata bodies.

I respectfully submit that this submission is relevant to your terms of inquiry.

Contrary to the Legal Practitioners Act, most of these strata managers give advice (for a cost) to the Council of Owners and individual owners, on a wide range of legal matters. In addition to the Strata Titles Act, they advise on employee engagement and dismissal, stamp duty, tenancy, GST, group tax, superannuation, contractual matters, leases and business operation. Big value business is involved. Most of these high rise residential strata's involve total turnover in excess of \$250,000 pa., with many exceeding \$1M.

Many of these strata managers take advantage of a group that is lacking in expertise, and they charge these owners excessive fees, for their minor services. In my experience, their advice is second rate and, very, often totally wrong. They thus expose the owners to litigation.

-2-

I list some examples of my experiences with strata managers who :

- allowed/ agreed to the placement of a huge GM, noisy, back-up electrical generator in the common area space of a very large city strata complex, without PCC approval, or referral to the strata owners for their consideration. Correction (removal) in this case did eventually occur (years) , but at huge legal cost to the owners, much of which they did finally recover.
- have little or no knowledge of the income tax act or the ability to operate group tax records.
- did not convene Strata general meetings for three years, but increased their own contracted fixed fee for each of those three years, to the strata employing them..
- had such little knowledge of the Strata Titles Act that they incorrectly advised the Council of Owners of a large strata, that general meeting approval to continue their services as strata managers was not necessary, as that approval was implicit in the proposed budget of forthcoming expenditure.

16/12/2009

- made a complete hash of GST accounting and related advice.
 - advised re a tenancy vacation that was contrary to the Tenancy Act, and left the owners facing a potential liability.
 - select contractors more for their likelihood of paying commissions or largesse (to the strata managers) than providing a market price service to owners., or make little effort to get the best market price.
 - when seriously threatened with enforcement of the Secret Commissions Act, in respect of a huge insurance commission they had received, but did not disclose, chose to immediately resign as strata manager, in the hope of avoiding a charge.
 - advised wrongly in respect of an employee dismissal that left the owners facing a large pay-out.
 - made payments to a large contractor (lift operator) that were contrary to the contracted services.
 - prepared year's end accounting records (for annual general meeting presentation) that were unprofessional.
 - Provided incorrect advice to an AGM that budget figures were all that was needed to authorize payment of their fees.
 - advised an AGM that they effected their own internal audit of the strata trust account and that an outside audit was unnecessary. This advice is contrary to the Strata Titles Act.
 - did not ever respond to owner's written queries, or return phone calls.
 - prepared monthly bookkeeping records that were sub standard.
 - ensured that difficulties are put in place to delay or prevent them(as strata managers) being sacked from this lovely gravy train that they are on.
- gave no adequate service for their fees, in too many cases to enumerate.

- 3 -

- generated transfer of funds, without authorization, between several unconnected strata companies that were under their control.
- received secret commissions in cash, from contractors.
- gave advice on matters for which they had no knowledge, but guessed an (incorrect) answer, to satisfy gullible owners.

Most of the above incidents are from strata managers of quite large size, not little inconsequential. I do accept that ethical operators in the field do exist here in WA. I have a microscope too.

○ I do not wish to give evidence before your committee inquiry.

I'm strongly of the view that Strata managers should be licensed and that there be adequate penalties for their ineptitude, fraud, mismanagement, over-charging. under-servicing and actions contrary to the laws. They should be properly educated, and subject to annual checks as to the extent of their continuing professional development.

Thank you.

Very Sincerely

W.K.O'BRIEN JP FCPA