Application Number: 15/00052/UT

Order of the Tenancy Tribunal

Residential Tenancies Act 1986 *Office of the Tenancy Tribunal*

Tenancy Tribunal at Auckland

Unit Titles Addresses

Heritage Hotel Carpark, 28-30 Cathedral Square, Christchurch Central 8011
City Life Units, 171 Queen Street, Auckland 1010
Heritage Hotel Farmers Building, 35 Hobson Street, Auckland 1010
Heritage Hotel Auckland Tower, 22 Nelson Street, Auckland 1010
Heritage OGB, 28-30 Cathedral Square, Christchurch 8011
Heritage Hotel Retail, Corner 22 Nelson Street & Wyndham Street, Auckland 1010

Applicants

Full Name		Address
BC 190834	Body corporate	PO Box 11131, Ellerslie, Auckland 1542
BC 181394	Body corporate	PO Box 11131, Ellerslie, Auckland 1542
BC 195681	Body corporate	PO Box 11131, Ellerslie, Auckland 1542
BC 73471	Body corporate	PO Box 11131, Ellerslie, Auckland 1542
BC 186838	Body corporate	PO Box 11131, Ellerslie, Auckland 1542
BC 73470	Body corporate	PO Box 11131, Ellerslie, Auckland 1542

Respondent

Full Name		Address
Body Corporate Administration Ltd	Service contractor	Unit 3, 115 Queen Street, Auckland Central 1010

THE SEAL OF THE TENANCY TRIBUNAL

Dated at Auckland on Friday 14-Aug-2015

B Stephenson, Adjudicator

Order of the Tribunal

The Tribunal orders that -

1. Body Corporate Administration Ltd shall pay to Boutique Body Corporates Ltd, as agent for the applicants, $10,612.39, calculated as follows:

Claim	Item	Amount	Due	Paid	Interest	Disc Fee	For ruling
2	Interest	$4,683.92	30-Mar-14	10-Jun-15	$560.79		$560.79
3	Disc fee + Interest	$3,932.70	30-Mar-14	10-Jun-15	$470.85	$357.50	$828.35
7	Disc fee					$357.50	$357.50
11	Balance + disc fee	$7,048.87	31-Mar-13	10-Jun-15	$1,546.89	$270.00	$8,865.76
							$10,612.39

2. Body Corporate Administration Ltd shall pay to Boutique Body Corporates Ltd costs and disbursements of $7,092.00, calculated as follows:

Item	Time	Rate	Fee	GST	
Claim preparation	11.50	$160.00	$1,840.00	$276.00	$2,116.00
Filing fee					$3,300.00
Preparation for hearing	7.00	$180.00	$1,260.00	$189.00	$1,449.00
Outstanding issues	1.00	$180.00	$180.00	$27.00	$207.00
Parking - hearing day					$20.00
					$7,092.00

3. Body Corporate Administration Ltd is to hand over to Boutique Body Corporates Ltd, within 10 days of the date of this order -

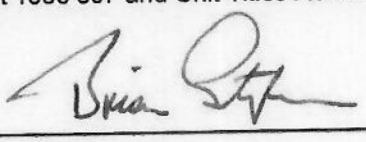
(a) All files and records of the applicants, including copies of all correspondence, whether hard copy or electronic, between each of the applicant bodies corporate and the building managers, owners, property managers, contractors, solicitors and third parties;

(b) All accounting and financial records of each of the applicant bodies corporate and the owners, including the make-up of any arrears carried forward, due by any individual owners (proprietor's ledgers);

(c) Any contracts held with the applicant bodies corporate or copies of any leases, licences or agreements between the applicant bodies corporate and any other party; and

(d) Correct and current owner's lists.

(Residential Tenancies Act 1986 s67 and Unit Titles Act 2010, ss121, 124-128 & 132)



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Reasons

[1] This action consists of 19 claims by six bodies corporate against their former secretary/manager, Body Corporate Administration Ltd ("BCA"). The claims total $43,246.49. Until 31 March 2014, BCA contracted to provide secretary/manager services to all six applicants. Its duties included managing their bank accounts and financial records.

[2] The six applicants have in common that they are the bodies corporate for hotels trading under either the "Heritage" or "City Life" brands. BCA lost the service contract as secretary/manager and Boutique Body Corporates Ltd ("Boutique") succeeded it. Boutique found discrepancies in the accounts that BCA handed over. After lengthy and persistent attempts failed to yield satisfactory explanations from BCA, the bodies corporate commenced these proceedings. Mr Craig Leishman of Boutique appeared for the applicants. BCA was represented by various of its managers and its sole director, Mr Glenn Kwok.

The Tenancy Tribunal's jurisdiction

[3] Section 171(1) of the Unit Titles Act 2010 gives the Tenancy Tribunal *"jurisdiction to hear and determine all disputes arising between any persons of the kind listed in subsection (2) in relation to a unit titles development (a unit title dispute)."* In subsection (2) are listed *(d) a body corporate* and *(h) a service contractor*. In section 5, a service contract *"means a contract between a body corporate and another person (the* service contractor*) engaging the service contractor (other than as an employee of the body corporate) for a term of at least 1 year to supply services to the body corporate or to the unit owners."* As a secretary/manager's duties include the preparation of the annual accounts, it is in the nature of such a contract that its term will be for not less than 1 year. It follows that the subject matter of this case is "a unit title dispute", amenable to the Tribunal's jurisdiction.

Background

[4] The following recital of facts is based on the evidence led by Boutique on behalf of the applicants. That evidence was largely uncontradicted and I found it reliable.

[5] Until 1 April 2014, BCA was secretary/manager for all six applicants. As the Secretary/Manager it raised invoices and levied all owners to fund each body corporate. BCA, until replaced, was responsible for preparation and delivery of the annual accounts for each of the applicants. This included managing the owner's ledger for each individual owner in the body corporate. Ensuring that the accounts, including the owner's ledgers, are current and correct were fundamental to its duties.

[6] As secretary/manager, BCA was also responsible for managing the funds for each body corporate. Until around early 2013, the funds for the applicants were managed through BCA's trust account.

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[7] The Heritage Group at about that time became concerned about BCA's accounting processes - for example, that there was no double entry accounting and no proprietary software - and encouraged the applicants to open their own individual bank accounts, but still under BCA's control as signatory.

[8] The establishment of individual bank accounts required BCA to notify all owners of the new accounts to which levies and payments were to be credited. Unfortunately a few owners continued instead to make payments into BCA's trust account. BCA's accounting for some of these payments form a part of the issues in this action.

[9] After a further trial period and an unsuccessful attempt at an audit of the body corporate accounts by the Heritage Group's accountants, the Heritage Group recommended to each of the applicants that they change their secretary/manager. BCA's engagement ended on 31 March 2014.

[10] BCA initially told Heritage Group it would transfer all files and other records early in February 2014, if they were not wanted. This did not occur. The handover was conducted over a period of several months. This resulted in the body corporate annual general meetings being delayed and, for a time, the bodies corporate were denied access to their funds. According to Boutique, BCA's directors also failed to assist with the appointment of replacement bank signatories.

[11] Boutique said that, after the handover, BCA provided some assistance to answer queries arising from incomplete or inaccurate records but, a short time after hand-over, BCA's management appeared to have directed staff to cease responding to Boutique. Boutique managed to resolve most issues arising from inadequate records and details provided on handover but a number of issues remained and would cause loss to the applicants unless resolved.

[12] Additionally, the applicants said they had suffered direct losses as a result of (a) Incorrect disclosures being provided to vendors of units for supply to the purchasers; and (b) failure to record changes of addresses provided by owners.

[13] Boutique said that BCA provided it with no hard copy files and, over a period of approximately six weeks, provided only selected electronic files. Boutique found that, in several cases, account information was incomplete and/or incorrect.

[14] Despite Boutique's repeated attempts to work with BCA to clarify aspects of the accounts and records, BCA proved reluctant to assist. Eventually it ceased to respond to Boutique's queries, whether by email or phone. Faced with BCA's continued silence, Boutique commenced these proceedings on behalf of the applicants, as the only available means of calling BCA to account for its stewardship.

[15] These proceedings contain 19 claims. They amounted in total to $43,246.49 for which, the applicants said, BCA had failed to account. The claims can be categorized as follows:

a. Failure to account for outstanding opening balances: claims 1, 2, 10, 14, 15 and 16;

b. Wrong section 147 pre-settlement disclosure certificates: claims 3, 7, 11 and 13;

c. Failure to explain arrears in the swimming pool account: claims 4, 5 and 6;

d. A charge for legal services, rendered otherwise irrecoverable because of a delay of almost 5 years in oncharging the lawyers' invoice to the unit owner: claim 8;

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e. Failure to hand over or account for a sum paid into BCA's trust account to the credit of a unit owner: claim 9;

f. An overpayment to BCA's trust account; claim 12;

g. Failure to account for payments made by a unit owner: claim 17;

h. Failure to hand over all hard copy and electronic files, including correspondence and financial records for not less than the six years back from 31 March 2014: claim 18; and -

i. Failure to keep an accurate and up-to-date record of a unit owner's contact details: claim 19.

[16] In the course of the hearing, BCA conceded several of the claims and handed over to Boutique cheques in full or partial satisfaction of them. BCA produced, either at the hearing or shortly thereafter, some of the explanations which the applicants had sought.

[17] The following claims were settled wholly or partially by the handing over of cheques by BCA shortly before, or in the course of the hearing:

Claim number	Payment	Cheque date	Amount paid	Unresolved	Amount claimed
Claim 2	Cheque	2-Jun-15	$4,683.92	Interest for 437 days	$560.79
Claim 3	Cheque	10-Jun-15	$3,932.70	Disclosure fee	$357.50
				Interest for 437 days	$470.85
Claim 4	Cheque	4-Jun-15	$561.20		
Claim 7	Cheque	4-Jun-15	$264.54	Disclosure fee	$357.50
Claim 9	Cheque	2-Jun-15	$1,792.65		
Claim 10	Cheque	4-Jun-15	$4,813.90		
Claim 12	Cheque	2-Jun-15	$564.00		
Claim 13	Cheque	4-Jun-15	$4,369.80		
Claim 17	Cheque	6-Mar-15	$3,663.78		
Claim 17	Cheque	2-Jun-15	$7.03		
Totals			**$24,653.52**		**$1,746.64**

[18] Further issues were resolved by the parties shortly after the hearing, leaving only four claims for determination by the Tribunal:

Claim	Item	Amount	Due	Paid	Interest	Disc Fee	For ruling
2	Interest	$4,683.92	30-Mar-14	10-Jun-15	$560.79		$560.79

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3	Disc fee + Interest	$3,932.70	30-Mar-14	10-Jun-15	$470.85	$357.50	$828.35
7	Disc fee					$357.50	$357.50
11	Balance + disc fee	$7,048.87	31-Mar-13	10-Jun-15	$1,546.89	$270.00	$8,865.76
							$10,612.39

The claims for interest

[19] All four of the unresolved issues included claims for interest at 10%. Claim 2 provides an example. The subject matter was a deficit of $4,683.92 not accounted for in the handover. It related to BC 181394, covering City Towers Auckland.

[20] Boutique's evidence was that, on handover, the owner's ledger for Unit 8K showed arrears of $3,903.24. The unit was sold on 30 March 2014 and all arrears supposedly had been cleared. BCA by email on 5 April 2014 confirmed that it had received $4683.92 into its old bank account, and that "there are no body corporate levies outstanding".

[21] BCA asserted in a subsequent email, and by memorandum at the hearing, that it had sent Boutique a cheque for $4,683.92 on 18 March 2014. The cheque had never been presented. Boutique said it had not received the cheque and that, even if it had, the cheque would have become stale on 18 September. The Body Corporate emailed BCA on 3 September 2014 but had received no reply until these proceedings were close to a hearing. BCA sent Boutique a replacement cheque on 2 June 2015.

[22] Boutique submitted that it would have been a simple exercise for BCA to check whether the cheque had been presented and, if so, establish where it was presented and by whom. By not making the effort to check, BCA had enriched itself by the $4,683.92 for one year, 10 weeks and 2 days and the body corporate had been held out of its money for the same period, until a replacement cheque arrived. On behalf of the body corporate, Boutique therefore claimed interest for one year, 10 weeks and 2 days. Boutique's claim on behalf of the body corporate has merit. BCA was unjustly enriched and the body corporate was unjustly disadvantaged.

[23] The Residential Tenancies Act 1986 contains no provision for awards of interest and the Unit Titles Act 2010 prescribes the Tenancy Tribunal's power to award interest narrowly. The Tribunal can award interest only within the confines of section 128, which entitles a body corporate to charge interest of up to 10% on money owed by a unit owner to the body corporate. While the evidence did not include a minute of an annual general meeting fixing the rate of debtor interest at 10%, there was secondary evidence of the rate in the s.147 statements produced. Each one contained a declaration –

> *(f) That there is no interest accruing on the sums owing to the body corporate by the unit owner at the rate of 10% per annum*

[24] Section 128 cross-refers to sections 121, 124, 125, 126 and 127, all of which concern levies and other charges which the body corporate may recover from a unit owner as if they were levies.

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[25] Distilling the sections cited above, at first glance it appears that the Tenancy Tribunal can award interest only against a unit owner, and only on levies or deemed levies payable by a unit owner. There is no express power to award interest on other debts or damages. By way of contrast, section 62B of the District Courts Act 1947 gives the District Court an express power to award interest on all debts and damages, up to the rate prescribed by the District Courts (Prescribed Rate of Interest) Order 2008.

[26] The Tenancy Tribunal and the District Court are both creatures of statute. In the Unit Titles Act 2010, the powers to award interest are defined narrowly. If that narrowness were to deny the applicants interest on unpaid levies or deemed levies, the result would be anomalous as between the Tenancy Tribunal and the District Court. If, on otherwise identical facts, an applicant were to run a successful claim for more than more than $50,000.00, it would have done so in the District Court and unquestionably the Court could award the applicant interest. It is hard to see any reason in public policy why like cases should be treated differently merely because their respective claims were above or below the $50,000 threshold.

[27] The amounts which BCA held or failed to account for were unpaid levies or deemed levies payable by unit owners to the body corporate. BCA received the levies from the unit owners in its capacity as the body corporate's former agent and also as a constructive trustee for the body corporate. After the handover, BCA's breach of trust held the body corporate out of its money.

[28] At this point, s.128(1) warrants a closer look. It reads:

> *If a unit owner owes money to the body corporate under section 121, 124, 125, 126 or 127, interest accrues in respect of so much of the levy as remains unpaid.*

[29] I do not read s.128(1) as denying a body corporate the right to recover interest on a levy from anyone other than the unit owner. Subsection (1) says only that "interest accrues". It does not say that the interest is recoverable only from the unit owner. If an agent or trustee (in this case, BCA) interposes itself between the unit owner and the body corporate and fails to pass on levies it has received from the unit owner, interest still continues to accrue, because the body corporate has not received the money. If the agent or trustee is holding the money and the unit owner is not, it makes sense for the body corporate to sue the agent or trustee. The nature of the sum of money in issue remains unchanged. It is still an "unpaid levy". If that interpretation is correct, then the body corporate can recover interest on the unpaid levy from the unit owner's defaulting agent or trustee.

[30] For the above reasons, I conclude that BCA is liable for interest on the unpaid balances of levies or deemed levies.

The claims for disclosure fees

[31] Claims 3, 7 and 11 sought to recover fees that BCA had charged for preparing inaccurate pre-settlement disclosure statements under s.147 of the Unit Titles Act. Claim 11 also sought to recover $7,048.57 in unpaid levies, not disclosed in a pre-settlement disclosure statement prepared by BCA.

[32] Section 147 provides as follows -

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147 Pre-settlement disclosure to buyer

(1) This section applies if a buyer and a seller have entered into an agreement for sale and purchase.

(2) No later than the fifth working day before the settlement date, the seller must provide a disclosure statement (a pre-settlement disclosure statement*) to the buyer.*

(3) The pre-settlement disclosure statement—

(a) must contain the prescribed information; and

(b) must contain a certificate given by the body corporate certifying that the information in the statement is correct.

[33] The "prescribed information" is defined in regulation 34 of the Unit Titles Regulations 2011:

34 Pre-settlement disclosure statement

The following information is prescribed for the purposes of section 147(3)(a) of the Act (which requires a pre-settlement disclosure statement to contain the prescribed information):

(a) the unit number; and

(b) the body corporate number; and

(c) the amount of the contribution levied by the body corporate under section 121 of the Act in respect of the unit being sold; and

(d) the period covered by such contribution; and

(e) the manner of payment of the levy; and

(f) the date on or before which payment of the levy is due; and

(g) whether a levy, or part of a levy, due to the body corporate is unpaid and, if so, the amount of the unpaid levy; and

(h) whether legal proceedings have been instituted in relation to any unpaid levy; and

(i) whether any metered charges due to the body corporate are unpaid and, if so, the amount of unpaid metered charges; and

(j) whether any costs relating to repairs to building elements or infrastructure contained in the unit are unpaid and, if so, the amount of unpaid costs; and

(k) the rate at which interest is accruing on any money owing to the body corporate by the seller; and

(l) whether there are any proceedings pending against the body corporate in any court or tribunal; and

(m) whether there have been any changes to the body corporate operational rules since—

(i) the additional disclosure statement, if one has been provided; or

(ii) the pre-contract disclosure statement.

[34] The pre-settlement disclosure statement is a key conveyancing document. It quantifies

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valuable rights and obligations which will accrue to the parties on settlement of a sale and purchase of a unit. In each of the three claims, the pre-settlement disclosure statements that BCA provided were wrong. In claim 3, this resulted in an unpaid balance of $3,932.70 not accounted for in the disclosure statement. BCA conceded the substantive claim and paid that amount to Boutique as agent for the body corporate. However, it declined to refund the fee it had charged for the wrong disclosure statement. In claim 7 BCA likewise paid the shortfall of $264.54, but not the fee.

[35] For the body corporate, Mr Leishman cited *BC 324525 v Wheeldon and Stent* [2015] NZDC 12029, an appeal to the District Court from the Tenancy Tribunal concerning the application of sections 148 and 150 of the Unit Titles Act and regulation 35 of the Unit Titles Regulations. In issue was a body corporate's claim for its fees, having provided the vendor of a unit with an inaccurate disclosure statement prepared by its contracting secretary/manager. The Court's reasoning is equally applicable to disclosure under section 147 and the prescribed information under regulation 34.

[36] In dismissing the appeal, the Court held (at para [17]) that the contracting secretary/manager was an agent of the body corporate, that (at para [18]) it was an implied term of the agreement between the vendor and the body corporate that the body corporate would supply the required information sufficient to meet the purchaser's request; and (at para [21]) that it was an implied term that the body corporate would notify the vendor if there was any change that subsequently made the information provided inaccurate. In failing to update the information after a significant change in the financial position, the body corporate breached the implied term, failed to discharge its contractual obligations and was therefore not entitled to seek payment.

[37] The reasoning in *BC 324525 v Wheeldon and Stent* is directly applicable to the facts of the present case. In failing to provide accurate pre-settlement disclosure statements, BCA failed to discharge its contractual obligations as an agent for the body corporate, and thus caused the vendors to provide misleading information to the purchasers. BCA is not entitled to be paid for the services that it did not provide and the bodies corporate are entitled to recover the fees from BCA. BCA is therefore ordered to pay $357.50 to the second applicant, BC 181394 in respect of unit 16G(16111); $357.50 to the third applicant, BC 186838, in respect of unit 452; and $270.00 to the third applicant, BC 186838, in respect of unit 550.

Claim 11 - Outstanding levy

[38] The largest remaining substantive issue between the parties was a claim for an unpaid levy. On 4 July 2012 BCA completed, on behalf of the body corporate, a pre-settlement disclosure statement in respect of unit 550. It stated that the vendor had paid levy for the 2012-13 financial year. It said that the only amounts unpaid related to the balance of swimming pool levies totalling $2,261.89, plus a fee of $270.00 for the provision of the pre-settlement disclosure statement. Upon settlement of the sale of the unit, BCA received a payment of $2,531.9 to clear the amounts owed.

[39] Subsequent to the sale, the unit was removed from the hotel letting pool. Where units had been in the hotel letting pool, it was the practice of the management of the hotel letting pool to pay body corporate levies on behalf of a proprietor in the letting pool.

[40] In response to a query from Boutique, BCA emailed on 9 June 2014 that the reason the section 147 statement said the 2012-13 levy had been paid was because, at that time, the unit was part of

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the hotel pool and so BCA assumed that the hotel would pay the outstanding levy. This assumption was incorrect. The hotel did not clear the levy and the levy remains unpaid.

[41] As the section 147 statement was incorrect, the body corporate could not pass liability for the unpaid levy to the purchaser. The body corporate had to pay it. The body corporate therefore claimed the amount from BCA, as the certifier of the section 147 statement. The amount of the unpaid levy is $7048.87. In reply, BCA submitted that the body corporate should pursue the Heritage Group.

[42] *BC 324525 v Wheeldon and Stent*, cited above, answers the question. In failing to provide accurate pre-settlement disclosure statements, BCA failed to discharge its contractual obligations as an agent for the body corporate, and thus caused the vendors to provide misleading information to the purchasers. The sum outstanding is an unpaid levy and the body corporate is entitled to recover the principal and the interest on it, for the reasons stated in paras [19] to [29] above.

[43] BCA is ordered to pay to the third applicant, BC 186838, the sum of $7,048.87 and interest thereon as calculated above.

Costs

[44] The applicants claimed full costs and disbursements, on the grounds that the conduct of BCA left them no option but to bring these proceedings. BCA resisted costs.

[45] For the extensive work required to prepare and prosecute these proceedings, Boutique's bill of costs is modest. All of the costs and disbursements that the applicants incurred were made necessary by BCA's failure to perform at a standard that can reasonably be expected of a professional secretary/manager of bodies corporate. The evidence leads me to conclude that BCA did not keep proper accounts, failed to hand over funds and records with reasonable promptness and failed over a long period of time to respond to reasonable inquiries from Boutique on behalf of the applicants. In effect, it appears that BCA pulled down the blinds and hoped that Boutique would go away. In the circumstances, litigation was an entirely reasonable response.

[46] To be effective, a company that offers itself as a professional secretary/manager to bodies corporate under the Unit Titles Act must be trustworthy and reliable. Money, instruments and other assets held by a body corporate's secretary/manager are subject to a constructive trust. The beneficial owners of the assets are either the unit owners or the body corporate itself. The only funds of which the secretary/manager is the beneficial owner are its fees for its own services, once they have been invoiced and approved by the body corporate for payment.

[47] I did not detect in BCA's witnesses a sensitivity to the company's status as a trustee, and to the onerous obligations that go with it. Rather, its witnesses tended to project an air of irritation at being required to give a detailed account of their stewardship of other people's money - one of the basic obligations of a trustee.

[48] One of BCA's witnesses asserted that the issues raised in this case involved "complex accounting". That is a surprising proposition. Maintaining an accurate ledger for each client requires

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skill, care and time but it is not "complex accounting". It is core business for a body corporate secretary/manager, just as it is for a solicitor or accountant operating a trust account as an adjunct to a professional practice.

[49] Mr Leishman, for the applicants, put in issue on three occasions whether BCA was carrying out double-entry accounting. None of BCA's witnesses responded to that question. The avoidance suggests that the answer is no. The question is not merely academic. Its point is that, if BCA had been doing double-entry accounting, an unbalanced debit or credit would have been detected when it flowed through to the trial balance. This did not seem to be happening. One claim concerned a legal services invoice dated 23 November 2009 but not charged to the unit until 11 March 2014. By then the unit ownership had changed.

[50] It took the commencement of these proceedings to dynamite BCA into giving an account of money that it did not own, and which it had held for more than a year after the termination of its contract. On the day of the hearing, BCA conceded that it had held onto $24,653.52 which did not belong to it. Added to that amount are the other items settled directly between the parties and the amounts awarded in this decision.

[51] While the evidence does not indicate deliberate misappropriation, the scale of the discrepancies and the delay in accounting for them suggest strongly that BCA's accounting standards were below what is acceptable for a professional secretary/manager. Had the same facts arisen in the context of a solicitor's trust account, the inevitable result would have been an inspection of the trust account by the New Zealand Law Society, probably followed by disciplinary action. There appears to be no comparable regulatory regime overseeing trust accounts operated by secretary/managers for bodies corporate. If a body corporate finds evidence of mismanagement or failure to account, a proceeding like this one in the Tribunal seems to be the only recourse.

[52] Trust accounts operated by secretary/managers of bodies corporate often handle substantial sums of money. Boutique's evidence indicated that the Heritage/City Life properties involved $3 million to $4 million per year and that was just one portfolio. The Heritage Group had commercial experience which presumably equipped it to notice that all was not well. Less commercially sophisticated unit owners in purely residential complexes are arguably more exposed, if their body corporate secretary/manager is not sufficiently skilled, careful and conscientious.

[53] As it happens, this is the third case I have heard in two months in which the evidence has tapped a reservoir of dissatisfaction with BCA's performance as secretary/manager. The other two cases were *BC 160064 v Shiu* 15/98/UT, 27 July 2015, in which a unit owner went on a levy strike, and *BC 95035 v Hills & Wilson* 15/23/UT, 9 June 2015, in which the Tribunal declined to award costs to the body corporate because of BCA's failure to respond in a timely manner to the unit owner's reasonable inquiries. Lack of responsiveness was the common thread in all three cases.

[54] Returning to the present case, where inadequate stewardship of body corporate funds is proved, the party at fault should bear the full costs. This is one such case. Accordingly, BCA is ordered to pay full costs and disbursements of $7,092.00.

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