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Second Report into “New Plymouth Legal Issues”

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Date: 21 March 2021

Intended Audience: Public (following opportunity for Right of Reply – Lauren Wallace [Govett Quilliam] & Sandra Hopkins [Deputy Registrar, New Plymouth])

Declaration

- 1 Writing the Wrong Ltd has been contracted to design and participate in a [currently] confidential 'sting operation' planned against New Plymouth resident Clarence William Withers, the client of New Plymouth-based legal firm Govett Quilliam of which this matter relates.
- 2 Details of this sequences of events will start to become publicly known from Tuesday 23 March 2021.
- 3 The timing of this report is prior to these events in order to give a 'last opportunity' for peaceful resolution to unresolved matters.

Executive Overview

- 4 Corruption appears to exist within the New Plymouth legal community based on my personal experiences 2020/2021. Evidence includes professional failure of a leading New Plymouth law firm, then an apparent cover-up (hotly denied of course) and a hurry to Judgment with the court having been provided with false information.

Background

- 5 In mid 2020 the writer (Dennis A. Smith) was approached regarding the affairs of a New Plymouth-based construction company.
- 6 In the process of analysing the company affairs (i.e. during due diligence) I established that it had a positive equity position for someone prepared to engage with legal matters, but would have had difficulty realising its assets for someone not legally competent.
- 7 Essentially this company had one troublesome debtor owing it in the order of \$16k, a substantial claim against it (that IMHO had little chance of success if defended), and debts owing of less than its assets.
- 8 My analysis was that it was solvent to anyone ready and capable of legal representation but not to anyone either unwilling or unable to undertake litigation on its behalf.
- 9 I therefore purchased this company in July 2020; renamed the company; cleared all company debt; sold its assets (which included the above-mentioned bad debt) and closed all its operations.
- 10 In due course the company ceased to exist, being struck off the company register.

Litigation

- 11 In regards to a matter of litigation then before the courts, the company director (in a private arrangement) agreed to advise the New Plymouth court of a change of representation and address for service, from a Hamilton based lawyer to itself.
- 12 The company did this.
- 13 The New Plymouth District Court rejected the companies notice of change of representation that effectively put its legal position into a lacuna [a 'legal hole'].

DIRECTION of Judge D Smith

1. The notice of representation by Mr Dennis A Smith is to be returned to him. He is not a lawyer and there is no suggestion there are special circumstances which would enable him to appear for the respondent. Nor has he attended Court today.
- 14 The New Plymouth lawyers advised the New Plymouth court that they were applying to reactivate the company, but did not notify the Defendant company of this.

15 Subsequent legal actions resulted in a judgment by default against the company while it was deregistered.

16 The Company Registrar's intent to reinstate the company was Gazetted post judgment on 3 December 2020 and the company was reinstated on 12 January 2021.

The Core Professional Error – Failure to note changes

17 The New Plymouth-based lawyers representing the bad-debtor appears to have failed to correctly identified the company ownership change.



18 This appears to be the core (and first) professional error as it is normal practice for lawyers to put related companies engaging with their clients onto their company watch-list.

19 This appears to be their first professional error.

The Second Professional Error – Attending court against the wrong entity

20 Upon notice of changes on the watch-list it would be expected that this matter would be then discussed with their client, contact details updated, the court advised of name changes and address changes etc. none of which occurred.

In the District Court
held at New Plymouth

CIV-2018-043-000421

Withers v King Country Roofing Limited

Date of Hearing: 21 September 2020
Between: Clarence William Withers
And: King Country Roofing Limited

Lauren Wallace
for Plaintiff

Not Represented
for Defendant

Type of Hearing:	List Hearing DC
Application before the Court:	Statement of Claim - DC General Proceedings Counter Claim - General Proceedings DC

21 “Lauren Wallace” then appeared in court for the Plaintiff against a wrongly named Defendant company whose director had previously been informed of his lack of standing to represent the Defendant (now his company renamed).

The Third Professional Error – Engaging with the court privately

22 What instead occurred was that there was an off-the-record discussion with the New Plymouth court staff privately, which resulted in a ruling from a DC Judge that the Defendant company director had no standing to represent the [now misnamed] company – an 'incorrect' decision clearly issued by a misinformed DCJ.

23 The court [correctly] advised the [misnamed] Defendant of this [incorrect]

ruling.

A Cover-up

24 The New Plymouth-based lawyers seem to have noticed their original error on or about 16 November 2020, shortly prior to a scheduled JSC, likely as they did due diligence for the first time immediately prior to the JSC.

25 They informed the court (only) of the fact that the company had been struck off and that they were intending to apply to have it re-registered:

“The plaintiff has recently become aware that on 28 October 2020, the defendant company was removed from the Companies Register”,

failing to address the previous errors of representation, address for service and naming resulting from their previous failure.

26 It is normal that professional legal representation will correct any errors with the court at the earliest opportunity, but this was not done in this case, despite knowledge now that the Defendant's director was falsely precluded from representing it.

27 The New Plymouth-based lawyers then engaged with the New Plymouth court directly, not only asking for instructions without informing the Defendant, but a DC Judge appears to also have liaised with the New Plymouth-based lawyers too without reference to the Defendant as evidenced by his comments in the judgment:

(c) The third claim, on which I have asked for some further submissions, and have received those, relates to the lost revenue.

28 This is clearly a prime facie case of breach of natural justice, whereby a lawyer obtains benefit to her client, deceiving the court, then interacting with the judiciary to supply information without the knowledge nor input of a defendant.

29 Documentation that the New Plymouth-based lawyers issued to the Defendant company in late January 2021 for the first time identified the correct Defendant company without noting the changed entity name.

30 Again the New Plymouth court was not advised of the correct name of the entity, nor that an error had obviously been made in 2020 prior to the judgment by default, despite the New Plymouth-based lawyers knowing that the Defendant company was precluded from representing itself by order of a DCJ.

31 This indicates a conscious and continued covering up by the New Plymouth-based lawyers ... to this day.

Direct Contacts

32 The Defendant made direct meaningful contact with Lauren Wallace of Govett Quilliam more than once, first on Sunday 28 February 2021 by way of an introductory email; the second time in a phone conversation on 9 March 2021 and lastly a follow-up email the same day.

33 Matters were left awaiting Lauren's contact with and instructions from her client, but she has failed to respond.

34 The Defendant sought clarification of communications from the New Plymouth DR, but has failed to receive any response.

Analysis

35 It appears to this writer that a fundamental error was made by the New Plymouth-based lawyers at the outset of their handling of this case that has disadvantaged the Defendant company thereafter.

36 Writing the Wrong are not lawyers therefore in a legal sense there may be issues not fully covered here but it is clear that something has gone very wrong in ensuring natural justice when the Director of a Defendant company is prevented from representing his company in court.

37 It also appears as though a cover-up has taken place following the re-venation that occurred "recently" (according to Lauren Wallace's submission to the court on 16 November 2020) when the court should have been informed of the legal firm's error in assisting the court to prevent the writer appearing.

38 This also makes any subsequent events adverse to the Defendant company subject difficult to enforce, should this be necessary.

Recommendations

39 This report should be issued to both the legal firm and the court in question for comment, correction and/or right of reply prior to distribution.

40 Any exposure of or any attempts at collection and/or enforcement against the Defendant company (without reference to this report) should be firmly defended in a public forum.

41 The sting operation planned against the New Plymouth-based lawyer's client should proceed as planned, following resolution of any matters raised in the Right of Reply process.

42 All parties involved should be strongly advised to inform their superior(s) and/or underwriter(s) in the event that matters escalate from here given the fact that there is now serious time sensitivity.