

From: A J Abbott ajabbott@bigpond.com
Subject: Re: Welcome El Presidente
Date: 15 March 2016 10:10 am
To: Chris Gunson chris.gunson@me.com



Sure-u asked for it-here they are!

cheers

AJA

From: [Chris Gunson](#)
Sent: Tuesday, March 15, 2016 9:55 AM
To: [A J Abbott](#)
Subject: Re: Welcome El Presidente

Hi Andrew,

Thank-you for your congratulations, and also for your work in relation to the professional standards scheme—obviously being undertaken in the face of bureaucratic frustration...

Can you e-mail me the annexures to your draft affidavit so that I can see where we are at and what they are carrying on about?

Cheers,

Chris

CHRIS GUNSON
Barrister



DERWENT & TAMAR CHAMBERS
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Hobart Tasmania 7000

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On 15 Mar 2016, at 9:23 am, A J Abbott <ajabbott@bigpond.com> wrote:

Congratulations

I have one current pro bono brief assisting the Bar in procuring limitation of liability (in essence to \$1.5m in all matters except the exclusions under the Act, mainly personal injuries litigation).

To achieve this I have had to deal over an extended period with a hive of Sydney insects working under the auspices of the Professional Services Councils. It is an almost unbelievably cumbersome bureaucracy.

The history is set out in my draft affidavit attached. Give me a call when u have read same and I will bring u up-to-date. At the moment they are not giving us the minutes dealing with out application.

Kind regards

A.J.Abbott SC
Malthouse Chambers
(03)62233844

<PSC-AJA-Affi-201115.docx>

TASMANIA
Associations Incorporation Act 1964
Section 8

Form 16



Incorporation Number: IA08914

Certificate of Incorporation on Name Change

This is to certify that

THE TASMANIAN INDEPENDENT BAR INC.

an association which was on the twentieth day of February 2004
incorporated under the Associations Incorporation Act 1964
did on the first day of September 2015 change its name to

THE TASMANIAN BAR INC.

Dated this first day of September 2015

N. Gordon

Assistant Commissioner for Corporate Affairs

Certificate

Department of Justice



Appendix 4-Practice-guidelines-...ch-2015.pdf	Appendix 6-Law Society annual repo...3-2014.pdf	Appendix 7-the BLE Rules 2010...pril15).htm	PSC-AJA-Affi-201115.docx	PSC-TasBar-271115.docx
PSC-TasBar-271115.pdf	PSL Application - List of Appendices...ov15.docx			

LIST OF APPENDICES

1. Certificate of incorporation on name change to Tasmanian Bar Inc. dated 1 September 2015.
2. Rules of Practice 1994.
3. Constituent and related documents of the Tasmanian Bar, namely:
 - (a) the Constitution;
 - (b) the list of members and their categorisation;
 - (c) the accounts of the TB for the financial year ended 2014;
 - (d) minutes of the TB annual general meeting on 18 march 2015.
4. Practice guideline no.4 in relation to the CPD requirements.

5. Premium schedule for the Law Society scheme for the 2016 financial year, and the Suncorp standard form policy wording.
6. Annual report of the Law Society for the 2014 year.
7. The BLE Rules.



PSL Application- -final
version Nov 15.docx



PSL Application- -final
version Nov 15.pdf



PSL Draft Application-6 -
final DRAF...pril 15.docx



PSL Draft Application-6 -
final DRAF...April 15.pdf



PSL Draft Application-6 -
final version...ril 15.docx



Requisitions.docx

15 June 2016 *Nov 2015*

John Rappell
Professional Standards Council
Email: john.rappell@psc.gov.au

Dear Sir,

TASMANIAN BAR LIMITATION OF LIABILITY SCHEME

I refer to your email of 16 November 2015 at 4.11pm. I record that you are the person designated by the Professional Standards Council to receive the application of the Tasmanian Bar Inc., and its related documentation.

I attach the application ("the application") of the Tasmanian Bar Inc. for the approval of a scheme in the form attached to and forming part of the application, which is made under and pursuant to s.8 of the *Tasmanian Professional Standards Act 2005* ("the PSA").

The application comprises:

- (a) the PDF application entitled by its footer "PSL Application-Final Version Nov 15";
- (b) the PDF PSL Application – list of appendices – November 15;
- (c) Appendix 1 – Certificate of Incorporation;
- (d) Appendix 2 – Rules of Practice;
- (e) Appendix 3 – Tasmanian Bar documents;
- (f) Appendix 4 –Practice Guideline no.4 relating to COE;
- (g) Appendix 5 – Insurance documents;
- (h) Appendix 6 – Law Society annual report 2013-14;
- (i) Appendix 7 – the BLE Rules 2010;
- (j) the requisitions in Word format; and
- (k) the document entitled PSL Draft application 6-Final DRAFT version April 15.

It is necessary to include the last two documents in order for the requisitions to be understood in their context as they are referred to in document (a).

I also attach my draft affidavit in Word format which is intended for use in any proceedings which may be necessary in due course. It will also be referred to the Attorneys-General, together with such of the annexures, and submissions, as appear to be appropriate when that reference is made.

I formally demand that, within a reasonable time, the Council:

- (a) considers; and
- (b) determines;

the application in accordance with law.

I indicate that if the application is not considered in accordance with law or is determined adversely to the applicant I will seek instructions to initiate proceedings against the Council, for orders in the nature of mandamus and for such other relief as may be appropriate, without further notice.

I look forward to hearing from you in due course.

Yours faithfully,



A.J. ABBOTT SC

A. J. ABBOTT SC
BARRISTER-AT-LAW

MALTHOUSE CHAMBERS
119 HAMPDEN ROAD
PO BOX 20
BATTERY POINT 7004
TELEPHONE: (03) 6223 3844
FAX: (03) 6223 5466
AUSDOC: DX 160
ABN: 33 308 092 879

5 April 2016

Mr Chris Gunson
President
The Tasmanian Bar
c/- Derwent & Tamar Chambers
DX 214
HOBART

Dear Sir,

APPLICATION BY THE TASMANIAN BAR FOR LIMITATION OF LIABILITY

I refer to my emails of 15 March 2016 and I note that I have not heard from you since then.

On 5 April 2016 I telephoned John Rappell of the Professional Services Council and enquired as to progress. He informed me that about a month ago you had written to him and told him to suspend work on our application. I assume that he is telling the truth.

You have not even had the courtesy of informing me or consulting with me in relation to what has been done, which involves the suspension if not the burning of hundreds of hours of my time expended over many years.

Presently I am minded to write to all members of the Bar in relation to this matter and, depending on the response level, to call a Special General Meeting at which I propose to move a motion of no confidence in you and in the present Council.

I invite your response to this correspondence. If I do not hear from you within 48 hours I will write to all members of the Association accordingly.

Yours faithfully,



A.J. ABBOTT SC

From: Chris Gunson chris.gunson@me.com 
Subject: Re: Limitation of liability
Date: 5 April 2016 11:57 am
To: A J Abbott ajabbott@bigpond.com
Cc: Bruce McTaggart brucemclaggart@bigpond.com



Dear Andrew,

I apologise for not responding to your earlier correspondence. I had intended to do so before Easter, but it escaped my attention.

Your extensive work in pursuing a limitation of liability scheme for the Tasmanian Bar is greatly appreciated, and the frustration that you have felt when dealing with the Professional Standards Council is obvious.

That said, I do not agree that it was appropriate to frame the application to the Professional Standards Councils in the confrontational manner that was adopted. Likewise I do not agree that it was appropriate to threaten to commence proceedings against the Professional Standards Councils, particularly in circumstances in which you did not have the authority of the Bar Council to convey such a threat. It is regrettable that you adopted the tone that you did in both the application and your correspondence with the Professional Standards Councils, including your proposed affidavit, because that in turn has caused embarrassment to the Tasmanian Bar. I am of the view that the approach that you adopted is likely to be unproductive and is unlikely to result in the proposed scheme being approved. Accordingly, I asked the Professional Standards Council to suspend its work on the proposed limitation of liability scheme.

That said, I intend to progress the Bar's application for a limited liability scheme, but I think that it would be best to do so after the proposed Bar Rules have been made. I am of that view because the proposed Bar Rules will constitute a significant regulatory event which should support the limitation of liability scheme. I have had some preliminary discussions with the Professional Standards Councils and they are willing to work with the Bar to progress the limitation of liability scheme.

In light of your correspondence with the Professional Standards Councils and the above views that I have, I have asked the Professional Standards Councils to note me as their primary point of contact for the Tasmanian Bar.

As to your inclination to call a special general meeting of the Tasmanian Bar and to move a motion of no-confidence in me as President and the current Bar Council, clauses 11 and 12 of the Constitution provide for the procedure for calling a special general meeting of the Bar. They provide:

11. A general meeting of the Association may be summonsed by the Bar Council or by the President or by any three members entitled to vote at a general meeting who has or have served written notice thereof upon the Secretary/Treasurer.
12. The Secretary/Treasurer must upon receipt of a valid notice summonsing a general meeting cause a general meeting to be called by giving written notice thereof within 14 days to all members resident in Tasmania.

If you would like a full copy of the Constitution Ms Tamara Dikkenberg can provide a copy to you. I will send her an e-mail indicating that should you approach her for a copy she should provide it to you.

If you wish to call a special general meeting of the Bar please arrange for the appropriate notice to be served on the Secretary/Treasurer, Mr Tom Cox, noting the need for the notice to be given by three members entitled to vote at a general meeting.

I note that I have not circulated your application to the Professional Standards Councils, your correspondence or your draft affidavit to all members of the Bar Council. The only members of the Bar Council who have been provided with copies are Mr Phillip Zeeman, the Vice President, and Mr Cox. I did that so that my response, as outlined above, could be considered by the executive members of the Bar Council, but also to minimise any potential embarrassment to you.

In the event that you write to all members of the Tasmanian Bar regarding this issue I will circulate all relevant documentation regarding this matter, including your application to the Professional Standards Councils, your correspondence to them, your draft affidavit and your correspondence to me, to all members of the Bar to enable the membership to consider the matters raised by you whilst being fully informed of the circumstances. Similarly, if you (and two other members entitled to vote at a general meeting) call a special general I will table those documents at the meeting.

Whilst your extensive work in developing a limitation of liability scheme for the Tasmanian Bar is genuinely appreciated by both myself and the Bar Council, in light of what has passed, you are no longer authorised to communicate with the Professional Standards Councils (or anyone else relating to the proposed Tasmanian Bar limitation of liability scheme) on behalf of the Bar Council or the Tasmania Bar.

I am hopeful that your letter to me of 5th April 2016 was dictated and sent in a moment of 'holtheadedness'. With that in mind I do not propose to raise this matter with the members of the Bar Council (other than the Vice President and Secretary/Treasurer) at this time.

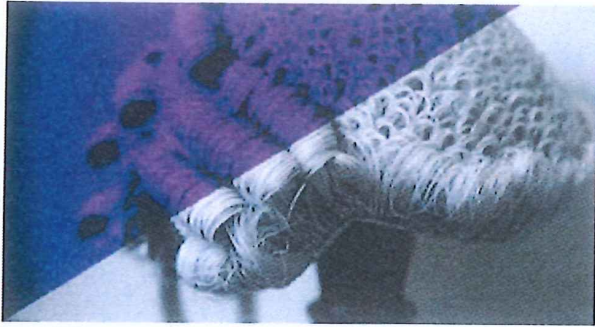
Could you please let me know your intentions regarding calling a special general meeting of the Bar?

Regards,

Chris

CHRIS GUNSON
Barrister





DERWENT & TAMAR CHAMBERS

128 Macquarie Street
Hobart Tasmania 7000

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On 5 Apr 2016, at 11:14 am, A J Abbott <ajabbott@bigpond.com> wrote:

I attach correspondence.

Kind regards

A.J.Abbott SC
Malthouse Chambers
(03)62233844
<TasBar-050416.pdf>

From: Andrew Abbott ajabbott@bigpond.com
Subject: Re: Limitation of liability
Date: 6 April 2016 9:04 am
To: Chris Gunson chris.gunson@me.com



Pdf attached.

Kind regards

A.J.Abbott SC

From: [Chris Gunson](#)
Sent: Tuesday, April 05, 2016 11:57 AM
To: [A J Abbott](#)
Cc: [Bruce McTaggart](#)
Subject: Re: Limitation of liability
Dear Andrew,

I apologise for not responding to your earlier correspondence. I had intended to do so before Easter, but it escaped my attention.

Your extensive work in pursuing a limitation of liability scheme for the Tasmanian Bar is greatly appreciated, and the frustration that you have felt when dealing with the Professional Standards Council is obvious.

That said, I do not agree that it was appropriate to frame the application to the Professional Standards Councils in the confrontational manner that was adopted. Likewise I do not agree that it was appropriate to threaten to commence proceedings against the Professional Standards Councils, particularly in circumstances in which you did not have the authority of the Bar Council to convey such a threat. It is regrettable that you adopted the tone that you did in both the application and your correspondence with the Professional Standards Councils, including your proposed affidavit, because that in turn has caused embarrassment to the Tasmanian Bar. I am of the view that the approach that you adopted is likely to be unproductive and is unlikely to result in the proposed scheme being approved. Accordingly, I asked the Professional Standards Council to suspend its work on the proposed limitation of liability scheme.

That said, I intend to progress the Bar's application for a limited liability scheme, but I think that it would be best to do so after the proposed Bar Rules have been made. I am of that view because the proposed Bar Rules will constitute a significant regulatory event which should support the limitation of liability scheme. I have had some preliminary discussions with the Professional Standards Councils and they are willing to work with the Bar to progress the limitation of liability scheme.

In light of your correspondence with the Professional Standards Councils and the above views that I have, I have asked the Professional Standards Councils to note me as their primary point of contact for the Tasmanian Bar.

As to your inclination to call a special general meeting of the Tasmanian Bar and to move a motion of no-confidence in me as President and the current Bar Council, clauses 11 and 12 of the Constitution provide for the procedure for calling a special general meeting of the Bar. They provide:

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I note that I have not circulated your application to the Professional Standards Councils, your correspondence or your draft affidavit to all members of the Bar Council. The only members of the Bar Council who have been provided with copies are Mr Phillip Zeeman, the Vice President, and Mr Cox. I did that so that my response, as outlined above, could be considered by the executive members of the Bar Council, but also to minimise any potential embarrassment to you.

In the event that you write to all members of the Tasmanian Bar regarding this issue I will circulate all relevant documentation regarding this matter, including your application to the Professional Standards Councils, your correspondence to them, your draft affidavit and your correspondence to me, to all members of the Bar to enable the membership to consider the matters raised by you whilst being fully informed of the circumstances. Similarly, if you (and two other members entitled to vote at a general meeting) call a special general I will table those documents at the meeting.

Whilst your extensive work in developing a limitation of liability scheme for the Tasmanian Bar is genuinely appreciated by both myself and the Bar Council, in light of what has passed, you are no longer authorised to communicate with the Professional Standards Councils (or anyone else relating to the proposed Tasmanian Bar limitation of liability scheme) on behalf of the Bar Council or the Tasmania Bar.

A. J. ABBOTT SC
BARRISTER-AT-LAW

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FAX: (03) 6223 5466
AUSDOC: DX 160
ABN: 33 308 092 879

6 April 2016

Mr Chris Gunson
President
The Tasmanian Bar
c/- Derwent & Tamar Chambers
DX 214
HOBART

Dear Sir,

APPLICATION BY THE TASMANIAN BAR FOR LIMITATION OF LIABILITY

I refer to your email of 11.57am on 5 April 2016 and I record at the outset that I find the content in the main to be:

1. strongly offensive; and
2. breathtakingly naïve.

You have been imperially discourteous to me in all that you have done on this issue to date.

I have acted throughout this matter with the express authority of the President for time being of the Tasmanian Bar. Mr O'Farrell SC first and then Mr McTaggart SC have been kept informed throughout and the application was lodged in its final form after consultations with Mr McTaggart SC (which included provision to him of the affidavit to which you have taken exception. I deal with that further below). The game plan, now derailed by you, was to force the PSC to consider and determine the application within a reasonable time, with a view to initiating litigation against it if it continued to be intolerably intransigent, or, if we went to water, at least to refer the refusal to the Attorney (including the affidavit) so that she would be aware of the monster created by parliament. The strong likelihood was that, with a properly loaded litigation gun at its head (and not otherwise) it would have come to heel. I take very strong exception to your statement that I have embarrassed the Tasmanian Bar-if you had not interfered we would now be close to the desired result.

I doubt whether, given the content of your email, you have even bothered to read all of the material which I sent to you. Certainly the requisitions that were made by the PSC of our application reveal the PSC to be an omnipotent bureaucracy devoid of any commercial sense or merit in any general sense. Up until very recent times I had been at pains to be just so nice to them, for the sole purpose of facilitating the

determination and approval of the application in a timely fashion. But the delivery of the requisitions made it obvious that that was not going to occur without a fight.

You are a relatively inexperienced practitioner and that shines through what you have done. I am not an inexperienced practitioner in any sense. My long experience in dealing with bodies of this nature is that, generally speaking, you achieve nothing without force or the threat of it. Accordingly the application was lodged in a way and with documents intended to let the PSC know that the issue would be forced against it, **but only after I had instructions to do so**. All of this was within my brief.

Finally, I note that the content of my affidavit was considered and measured in the circumstances. Your suggestion that I should be embarrassed by it is strongly offensive and deeply resented-I stand and fight when necessary (and it is now-you haven't met these people). It also had a deliberate touch of black humour that was entirely appropriate in the circumstances. I repeat that you do not seem to even have considered the content of the requisitions that were made. As Mr McTaggart was and is well aware, I was and still am very keen, to have those requisitions put before an experienced commercially experienced Supreme Court judge, with a view to having him determine whether or not the conduct of the PSC was *intra vires* in the circumstances. In my view it plainly was not.

I consider your proposal to defer the application until the promulgation of the new Rules which you are apparently happy to inflict on the Tasmanian Bar to be a furphy involving yet more pointless and unnecessary delay. There is nothing in the new Rules as I read them (assuming that they are in common form to the NSW/Vic Rules which I perused over Easter to determine, in broad terms, whether or not they were consistent with Tasmanian practice and unlikely to materially increase the cost of doing business) which is germane to the application. They are just yet another totally unnecessary nuisance which in some respects detracts from the present position (for example, our right to sue our instructors seems to have vanished). Why have you not consulted the membership about them?

Whether I can be bothered to further force this issue is a matter about which I will consult and reflect. If this was a paying job it would owe me \$200K already and the utility of it is limited. It is but a facet of a much wider asset protection strategy. I had intended to run it *pro bono* for the first 12 months but I now decline to do so.

In conclusion I reiterate that what you have done has done and will do nothing but play into the hands of the Sydney mandarins, whose grip on us (and others) in my view clearly needs to be permanently broken. I'm sure that Mr Rappell, judging from his tone on the phone yesterday morning, is now very pleased with himself. I am very anxious that that position ought not to continue. My considered view, after dealing with the mandarins for an extended period, is that they will not approve our application on reasonable terms otherwise than with a properly loaded litigation gun at their head.

I invite you, with view to avoiding internecine warfare, to consider your position.

Yours faithfully,

A handwritten signature in blue ink, appearing to be 'A.J. Abbott', written in a cursive style.

A.J. ABBOTT SC

From: Chris Gunson chris.gunson@me.com 
Subject: Re: Limitation of liability
Date: 6 April 2016 9:57 am
To: Andrew Abbott ajabbott@bigpond.com



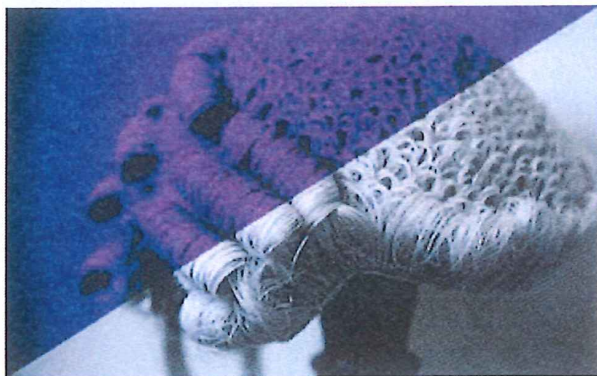
Dear Andrew,

I refer to your letter of 6th April 2016 in reply to my e-mail to you of 5th April 2016. I do not propose to engage in a debate with you regarding this matter and accordingly I will not be responding to your correspondence beyond the extent of this e-mail. The Bar Council will progress the Bar's application for approval of a limitation of liability scheme as the Bar Council sees fit.

I reiterate that you are not authorised to communicate with the Professional Standards Councils or anyone else in relation to this matter on behalf of the Tasmanian Bar.

Chris

CHRIS GUNSON
Barrister



DERWENT & TAMAR CHAMBERS

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On 6 Apr 2016, at 9:04 am, Andrew Abbott <ajabbott@bigpond.com> wrote:

Def attached