

21/12 '05 10:12 FAX 61 2 9261 8312

ChanceryCathArchofSydney

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Catholic Church Insurances Limited

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16 December 2005

Mr Danny Casey
Business Manager
Catholic Archdiocese of Sydney

By fax: (02) 9261 8312
4 pages

PRIVATE & CONFIDENTIAL

Dear Danny,

CATHOLIC ARCHDIOCESE OF SYDNEY - CORRS LEGAL FEES

I refer to your letter and various attachments dated 14 November 2005.

Before we can give proper consideration to the legal fees billed by Corrs to the Archdiocese of Sydney, there are a number of important matters which we wish to discuss. At the outset, I regret to say that Catholic Church Insurances has serious reservations about the level of fees which have been incurred thus far by the Archdiocese in the various matters being run by Corrs. As I have said in my earlier correspondence to His Eminence, we are keen to avoid the situation where the Archdiocese incurs a shortfall in the financial coverage being available under its relevant insurance arrangements.

As you know, the starting point for this analysis is that the Public Liability policy gives Catholic Church Insurances the right to "take over and conduct in the name of the Insured the defence or settlement of any claim". To date, CCI has not insisted on exercising that right in regard to the Special Issues claims being handled by Corrs at the request of the Archdiocese.

take over
✓

The policy also stipulates that CCI will pay legal costs incurred with its written consent in the settlement or defence of any claim for compensation in respect of which the Insured is entitled to indemnity under the policy. Accordingly, CCI accepts our responsibility to pay reasonable defence costs incurred with its written consent.

implies our costs are unreasonable

We note from an initial review of the accounts submitted by Corrs that they have billed approximately the following amounts to the Archdiocese in the various matters (as at 14 November 2005):

- John Ellis v His Eminence Cardinal George Pell & Ors: professional fees of \$262,272.00 and disbursements of \$104,943.76 (a total of \$367,215.76 excluding GST)

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For claims, policy and general enquiries telephone 1300 655 001

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We note that most of those disbursements comprise fees for both senior and junior counsel briefed in the various matters, and that the total amount paid by Corrs to these barristers is approximately \$97,497.52.

It appears to us that Corrs are running these matters in a manner which is completely different to that currently adopted by CCI and its panel solicitors in this area of our business, which have been developed over many years. In our assessment, the legal costs run up by Corrs are a multiple of the fees which we would ordinarily expect to pay for similar matters.

While we recognise that each case has its own unique features and difficulties, we are concerned with the following general aspects in relation to Corrs' accounts:

- (a) The hourly charging rates used
- (b) The extent to which both senior and junior counsel are used
- (c) The number of people from Corrs working on each file
- (d) The costs for numerous "*internal*" meetings (i.e. within Corrs) and discussions between these people which appear on the accounts
- (e) The extent and cost of research which Corrs engages in
- (f) The amount of time and costs incurred in pursuing what might be relatively minor issues
- (g) Work undertaken which "*reinvents the wheel*" and which CCI has already investigated through its panel in other matters.

We are also concerned about the large level of costs incurred in some matters before a reasonable attempt has been made to investigate and/or consider the possibility of settlement. We would prefer to see some costs being devoted to reasonable settlement payments with claimants, rather than legal fees. In our experience, this has been the general approach taken by the Church to Special Issues matters over many years and it seems to be a more appropriate allocation of resources.

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Once we have discussed these conceptual points with you, CCI will require Corrs to itemise their accounts to enable us to analyse them further. I have attached a specimen account prepared in the form generally required by CCI, which will facilitate analysis of each item to determine "reasonableness".

Once you have had an opportunity to consider this letter, I (and Marita Wright) would like to meet privately with you to discuss the conceptual issues which we have raised and to see if we can reach agreement on both the current costs claimed and a mutually accepted way forward in regard to future costs. I consider that it is inappropriate that at this stage we liaise with Corrs directly on this issue, as per your request.

] don't agree

In our view, we need to resolve these matters of principle before we address the revised draft protocol which you forwarded to us with your 14 November letter. However, we do note that this document has been substantially redrafted from the earlier version which we have discussed with you. There remain a number of issues concerning that proposed protocol which still require detailed discussion and agreement. Amongst them is the reference to "80%" in paragraph 6.1, which obviously represents an acknowledgement by the Archdiocese that not all of the Corrs costs should be met by CCI. That issue, of course, requires further discussion.

By way of providing some comparative information, we have identified one particular CCI case which has substantial similarities to the Ellis matter, being the matter of McGann v Eijkman, McChoin & the Diocese of Parramatta. In that case, there was a vigorously contested application to extend the limitations period in the Supreme Court of New South Wales. Subsequently, that judgment went on appeal to the Supreme Court of New South Wales Court of Appeal, with judgment having been handed down by that court on Friday 4 November 2005 in favour of the diocese. This constitutes a major piece of litigation with multiple issues, all vigorously contested and senior counsel were engaged for various parties (including the diocese). Just as a point of comparison, the total legal fees incurred (including disbursements which themselves included substantial counsel's fees) up to the conclusion of the appeal was under \$120,000.

comparison inappropriate - JXD to respond

Further, we have reviewed our Special Issues files to provide you with other (much more general) comparative figures: We have established the following:-

- (a) The average legal costs per claim incurred by Catholic Church Insurances in regard to Special Issues claims over all states over recent years is less than \$15,000
- (b) There is only a handful of cases over many years in which the costs incurred, including disbursements in defending any particular matter exceed \$100,000.

Clearly, CCI cannot allow the present position to continue. This is a major issue for the company which I believe can be corrected only by a substantial change in approach. In the circumstances, we feel that we should record that CCI will not meet the current Corrs fees in full. We are, though, happy to meet with you as soon as reasonably possible for all concerned to consider ways of resolving this worrying situation as soon as possible.

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Unfortunately, I plan to take a long break during January, however I would like to meet with you as soon as possible on my return to progress a resolution of this matter. To this end, I will ask my PA, Sarah Whitbourn, to contact your PA to arrange a meeting between you, Marita and me. Of course, during my absence, Marita would be happy to discuss the matter with you.

Yours sincerely,



Peter Rush
General Manager
Catholic Church Insurances Ltd

Encl. Specimen Account Template

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TAX INVOICE

Period Covered:

Service Providers:

Date	Fee Earner & Work Performed	Time Units	Charge
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Summary

Operator	Hours	Charge
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GST Applied

Total Fees Including GST

Disbursements Subject to GST

Total Taxable Disbursements Including GST

Disbursements Not Subject to GST

Total Disbursements Not Subject to GST

TOTAL COSTS & DISBURSEMENTS

Summary of Amount Due:

Total Fees
Total Disbursements
Total GST Applied
Amount Due: