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THE OFFICE OF THE  
**LEGAL SERVICES COMMISSIONER**

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**Private & Confidential**

Mr Mohammed Tariq  
PO Box 27  
ST MARYS NSW 2760

Our ref: 30988\_23, 30989, 30990 & 30991  
Contact: Steve Mark

22 December 2011

**By email: [tariq\\_aust@hotmail.com](mailto:tariq_aust@hotmail.com)**

Dear Mr Tariq

**My complaints about Philip Scroope, Tony Barakat, Russell Keddie and Scott Roulstone**

I refer to my letter of 10 November 2011 which provided you with an update on the investigation of these complaints.

I am now writing to inform you of my decision in relation to the allegation of failure to make timely costs disclosure to you and your family.

In the course of my investigation, I received and considered submissions from Mr Scroope and each of the former principals of Keddies. Having considered those submissions and the practitioners' previous responses to my complaints, I have decided to dismiss the allegation of failure to make timely costs disclosure as I am not satisfied there is a reasonable likelihood that any of the practitioners would be found by the Tribunal to have engaged in either unsatisfactory professional conduct or professional misconduct.

Mr Scroope was the employed solicitor with conduct of your family's matters. It appears he gave limited costs disclosure to you, your wife and your daughter verbally during your initial conferences with him. Limited information about costs was also provided in writing in the initial letters Mr Scroope sent to you, your wife and your daughter. However, the disclosures made fell far short of the disclosures required under section 309 of the *Legal Profession Act 2004*. I consider that the disciplinary Tribunal would be reasonably likely to find that proper costs disclosure was not made until the costs agreements were given to you, your wife and your daughter.

In your matter, the delay in making costs disclosure was over 2 months and a substantial amount of work was done in the meantime.

In relation to your wife and daughter, the delay in making costs disclosure was 4 months.



Mr Scroope says he made a conscious decision not to provide you with the costs agreement and costs disclosure document at his first meeting with you. Mr Scroope says he considered it inappropriate having regard to your physical and psychological condition, and given the length and contents of the costs disclosure material. Mr Scroope says he was concerned not to impose unnecessary additional burdens on, or cause stress to, you and that he wanted you to have the best possible opportunity, free from pressure of any kind to understand the costs arrangements. For the same reasons, he considered it inappropriate to send the costs disclosure documents to you in the mail, preferring instead to give them to you in person. He makes similar submissions in relation to providing costs disclosure to your wife and daughter.

I am not satisfied that the disciplinary Tribunal would agree that your particular circumstances excused Mr Scroope from complying with the obligation to disclose before, or as soon as practicable after, Keddie was retained. I accept, however, that the Tribunal might conclude that Mr Scroope acted in the honest but mistaken belief that he was justified in delaying the making of costs disclosure. In that case, a finding of unsatisfactory professional conduct or professional misconduct would, in my view, be unlikely.

I have reminded Mr Scroope that the requirement to make costs disclosure in writing before, or as soon as practicable after, a law practice is retained is mandatory, and have urged him to ensure he does so in all future matters in which he is retained.

Mr Keddie, Mr Barakat and Mr Roulstone say they relied upon Mr Scroope to make costs disclosure to you and your family. They say they had no knowledge of the delay in making costs disclosure. Mr Barakat and Mr Roulstone point out that they were in a different office to Mr Scroope and did not directly supervise him. In these circumstances, I am not satisfied the disciplinary Tribunal would find that any of the former principals should be held liable for the delay in making costs disclosure. It follows that the complaints against them must be dismissed.

I realize you may be disappointed by my decision, but trust this letter explains my reasons for it. As this concludes the complaint investigations, I will now close my files.

Yours sincerely



**Steve Mark**  
**Commissioner**