



Attached are the minutes of a meeting called by the Motorcycling NSW President on the 27th September 2016.

Whilst the minutes have been ratified as correct by the Directors present, upon legal advice it has been found that Motion 2 is in contravention of the Corporations Act and is considered void.

The Motorcycling NSW President has been reinstated to that position.

Legal Advice Below:

"that the President be dismissed as a director of Motorcycling NSW Limited as he has breached the director's agreement of the governance policy in item 5.1.3, being found by his fellow directors that he acted in a manner unbecoming and brought Motorcycling NSW into disrepute as a result of his actions"

There are no legal requirements for the form or content of a resolution other than that it be clear and based upon a power that the Board possesses.

In that regard it is relevant to note that Motorcycling NSW Ltd is a public company limited by guarantee. Section 203E of the Corporations Act 2001 provides that "a resolution.... of the directors of a public company is void to the extent that it purports to... remove a director from their office".

Section 203E cannot be overcome by the terms of MNSW's constitution and it follows that the resolution removing the president is void. A void resolution is taken to have never occurred, and the president therefore retains his position as though the resolution were never passed.



confidential information to any party outside of the Board either verbally or in writing, each responded in the negative.

- That AB was taking legal action against Motorcycling Australia regarding an unrelated incident and that Motorcycling NSW were placed on notice that they would be required to take some responsibility in the event of liability being proven against MA.

The President spoke at length, he advised that he had spoken to AB on several occasions and that she had provided him with an assurance that she had accepted his apology in full acknowledging that everyone makes errors and that was his, but she accepts his apology. He further explained that AB also assured him that any action between AB and MA had no relevance or involvement of Motorcycling NSW. It was his position that AB had accepted the apology and as a result the motion of 21st July 2016 had been complied and the matter is finalised.

Some of the Directors did not concur with the President as it was believed that he may not be accurately portraying the version of the events in an attempt to save further action against himself.

At that point the GM explained that the day prior, AB had also contacted him (unsolicited) and explained that she had accepted the apology of the President and that any legal issue that may occur between MA and AB had no bearing or relevance to Motorcycling NSW. The GM explained that AB was reluctant to put an acceptance of the apology in writing considering she had been unfairly dismissed from MA (her opinion) and that she was taking action against MA and did not want to do anything that may jeopardise those proceedings. The GM explained that AB was willing to speak with a Director personally if she was contacted from the meeting to verify the statements made and that he had the phone number and AB was willing to accept the call. Director Tim Sanford volunteered to contact AB, however some of the other Directors did not deem this acceptable.

At that point the President finalised his version of events and was asked to leave the room. The GM also offered to leave the room. The Directors instructed him to stay.

The President left the room.

The remaining Directors were extremely disappointed that AB had not put the matter into writing and had she done so, the matter would have been resolved with no further action required. They noted at length the mantra of the GM who regularly endorses that "if it is not in writing it did not happen" on all matters he deals with in the office and it was their position that this matter also should fall under the same requirement. Director Tim Sanford noted that an apology in writing was not part of the Motion passed on the 21st July 2016 and that having a verbal apology reported by both the President and GM should be sufficient to fulfil the requirements of the motion. The remaining Directors disagreed.

At that point the Vice President read correspondence he had received from MA on the 12th August 2016 outlining ABs reluctance to accept the apology from the President. The Vice President was asked to table the document to which he refused siting his assurance of confidentiality to the writer.

The Directors discussed this matter at length and determined that a decision needed to be made on the matter and that without the apology being accepted in writing and that the Vice President did have correspondence suggesting the apology would not be accepted that they could only suggest actions based on the documents at hand in writing not on anything else

The Directors put forth a motion to rescind the motion passed of 21st July 2016.



MOTION 1- That the censure motion of the President that was conditional on an apology being accepted be rescinded.

Carried

The motion carried on a vote of three in favour, one opposed. Director Tim Sanford asked that his objection to this Motion be noted within the minutes as it was his position that the motion of the 21st July 2016 had been fulfilled and that changing it afterwards was lacking integrity.

The President was invited back into the room and informed of the successful rescission of the motion and was asked if he would resign his position. He refused to resign accepting that he had erred in his email to AB, she had accepted his apology and had now put it in writing thus fulfilling the original motion of the Directors and additionally their subsequent request. The Vice President once again offered the President the opportunity to resign which he again refused.

The Directors once again asked the President if he would once again leave the room so they could discuss the next step after his refusal to resign.

The President again left the room and the Directors commenced further discussions

Shortly after, the President knocked at the door requesting the attention of the Directors, he noted that an email had been sent to the GM that holds relevance to the meeting. The GM sought permission to retrieve the email which was granted. The following email was sent at 8.19pm on the 27th September to Dave Morgan and copied to the GM. Director Leon Sayers accompanied the GM to retrieve the email.

Good evening David,

I hope you're well. In light of some recent information I have been provided, I would like to request that I am kept out of the current situation between Motorcycling Australia and MNSW. I therefore accept your apology and I'm sorry I haven't been able to communicate properly with since your email. Everyone deserves forgiveness and sadly I have had my own employment with MA terminated for less.

I wish you all the very best in the future and for the future of the sport.

Yours sincerely,

(AB)

The remaining Directors continued to discuss the position of the President (who was still out of the room) and it was considered by the majority that he had brought Motorcycling NSW into disrepute by his actions in writing the email about AB and that he had breached the rules, regulations or policies of Motorcycling NSW in doing so thus breaching the companies' governance policy. It was considered that breaches of the governance policy could not be deemed acceptable and action was required to be taken.

The Directors then took the opportunity to raise a second motion

MOTION 2 - That the President be dismissed as a Director of Motorcycling NSW Limited as he has breached the Directors agreement of the governance policy in item 5.1.3 being found by his fellow Directors that he acted in a manner unbecoming and brought Motorcycling NSW into disrepute as a result of his actions.

Carried



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The motion carried on a vote of three in favour, one opposed. Once again Director Tim Sanford requested that his objection to the motion be specifically noted for the same reasons as earlier.

The GM also requested permission for his objection to this action being taken by the Directors be noted in the minutes. It was his position that this action was not binding and outside of the required processes.

Mr Dave Morgan was asked to return to the room and was informed of the decision of the board.

Mr Morgan was dissatisfied with actions of the Board and made his thoughts known.

Director Tim Sanford left the meeting noting his disgust at the treatment of the President

Mr Morgan indicated that he would immediately like his appeal to be lodged and that he would be considering further action. The GM noted that he was unsure how or what process needed to be undertaken to appeal (if any) but suggested Mr Morgan put his appeal in writing as the first action.

With no further business the meeting concluded at 9.17pm
