

12 June 1997

Executive Secretary
National Beekeepers Association of New Zealand (Inc)
PO Box 3079
NAPIER

Dear Harry

MAY EXECUTIVE MEETING

1. We refer to your letter of 10 June 1997 requesting our opinion in relation to two matters arising out of the May 1997 Executive Meeting.
2. The first matter you have enquired about relates to whether the contents of the President's report in the June Beekeeper magazine are defamatory. The second question is whether or not the discussion and decision relating to the re-appointment of the Executive's Secretary position was a proper meeting of the Executive.
3. As we act for the Association, we are not in a position to advise as to whether you personally or your company have been subject to defamatory comments by an Officer of the Association. To do so would be to act where there is a conflict of interest, and therefore in breach of our duties to both the Association and yourself. If you wish to obtain legal advice on that matter we suggest you would have to instruct other solicitors.

Status of Meeting

4. We note that there is no question whatsoever of the propriety of the executive meeting which discussed the matters on the agenda before 10.25 am, when the minutes indicate the meeting was closed. The issue is whether the meeting of executive members after 10.25am constituted a proper meeting of the executive or not.
5. The Association Rules provide at Rule 16 (g) that:

"The executive shall meet as when directed by the President or on the requisition of 4 members of the executive".

The challenge to the propriety of the meeting is on the basis that the meeting was not constituted by one of the methods permitted under this Rule.

013

Page 2

6. In our opinion, the meeting was a proper meeting of the executive. There are 2 possible ways of viewing the later meeting. The first is that it was a continuation of the earlier meeting, reconvened as a special closed session; the second is that a separate executive meeting took place. Whether the original meeting was reconvened as a closed session, or whether the discussion after 10.25am constituted a separate meeting, our opinion is that it was a proper meeting with authority to make executive decisions.
7. The clear inference to be drawn from the minutes (refer Item 15) is that the executive decided that it would meet in a closed session (without those who had a direct interest in the position present) to discuss the Executive Secretary's performance and the future contract. The executive reconvened shortly after 10.25 am for this purpose with the Vice President, Richard Benseman, as Chairperson. The fact that the Minutes state that the President declared the meeting closed at 10.25 am does not in our view preclude the meeting having been reconvened again shortly later for a closed session.
8. Alternatively, if the discussion after 10.25 is deemed to be a separate executive meeting, it was in fact convened by the requisition of 4 members of the executive. Again, under Item 15 of the Minutes it is clear that those members of the executive present at the earlier meeting, (being more than 4 members) decided to have a further meeting, thereby 'requisitioning' the following meeting. No particular form of words or action is necessary to requisition a meeting, it is a question of fact. In the circumstances, even without the minutes, the fact that the executive met with a quorum is sufficient evidence from which to draw the inference that a meeting was requisitioned by 4 or more members.
9. We trust that this is of assistance to the Association. Please do not hesitate to call if we can be of further assistance in this matter or if you wish further clarification of any matters contained in this letter.

Yours faithfully
MORRISON KENT

Jane Forrest
Solicitor

Direct Line: 495-8928
Direct Fax: 495-8937

J10611.br