Heights Resort Developments Pty. Ltd and Ian Lonie was representing the Defendants as respondents..

(t) I was permitted to make my submission and I did so by reading the letter dated 26/2/88.

(u) Lieutenant Colonel Garde subsequently read his written submission to the Tribunal.

(v) Paragraph 4.0 of Lieutenant Colonel Garde's signed submission says, "*THE APPLICANT HAS THE BENEFIT OF ENFORECEABLE LEGAL AGREEMENTS WITH THE WATERWORKS TRUST FOR THE PROVISION OF WATER, AND THE SEWERAGE AUTHORITY FOR THE PROVISION OF SEWERAGE*"

(w) I say that for the reasons set out by me in my letters of 26/2/88 and that by its specific terms the Water Supply Agreement was in specific breach of s.307AA(2) there was no possibility of a belief by Lieutenant Colonel Garde that the Water Supply Agreement was either lawful or enforceable and I submit to this Court that at the time of drafting and making his submission Lieutenant Colonel Garde knew full well that his submission was false and misleading or alternatively Lieutenant Colonel Garde made the submission carelessly and recklessly not caring whether it was either true or false.

(x) I also say and I submit to this Court that at the time of making his submission Lieutenant Colonel Garde knew full well that his submission assisted in perpetuating the loss and damage which was being caused to the Plaintiffs or alternatively he made his submission without caring as to whether or not his submission was damaging.

(y) I also say and submit that Lieutenant Colonel Garde's submission misled the Tribunal and that Lieutenant Colonel Garde intended the Tribunal to rely upon his submission in preference to mine and he misused his position and status as an Officer of this Honourable Court to mislead the Tribunal for that purpose.

(z) I also say and submit that had Lieutenant Colonel Garde not misled the Tribunal then a very real possibility, indeed probability, is that the Second Defendant may have had no option other than to enter into a lawful agreement with the Body Corporate and in which case the Plaintiffs would not have suffered the loss and damage on the Woodleigh Heights land that they subsequently suffered and this present proceeding may never have occurred.

(aa) No doubt the Lieutenant Colonel rendered an account commensurate with his high office and great skill and his family dined well on the fruit of his labour. My family on the other hand found the fruit of his labour quite unpalatable, we continue to suffer the debilitating effect almost 20 years later.