

Steering a safe course



through our retirement years

# REBUS NZ INCORPORATED

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30 June 2016

## NEWSLETTER NO 14

Dear Club Officers,

**Ongoing use of the Probus name.** We have covered this topic in previous Newsletters and readers will recall that **REBUS** has been firmly of the view that it is only a matter of time before those Probus Clubs who are no longer affiliated to PSPL, will be forced to adopt another name – or re-affiliate.

The prospect of the name loss has caused considerable concern to us all as no one relishes the prospect of having to sever a connection which in many cases, stretches back several decades.

The High Court decision which found in favour of PSPL, required both PNZI and the seven incorporated Clubs included in the judgement, to immediately cease using the Probus name.

Two courses of action were open to the balance of the 273 Clubs which had left PSPL:

- 1) **To appeal that High Court decision and/or**
- 2) **Pursue the objection previously lodged in the Intellectual Property Office against PSPL's application to trademark the Probus name and see that through to its conclusion.**

Neither options was adopted and as a consequence, PSPL was successful in retrospectively obtaining the rights to license the use of the name in NZ as from the 4<sup>th</sup> December 2015.

We can all identify with the disbelief expressed throughout the country at the High Court decision which many believe was flawed and worthy of appeal. But, the hands of the clock cannot be turned back and like it or not, the reality is that any Club who continues to call itself a Probus Club without being an affiliate of PSPL, is effectively in breach of the law.

As Probians, we would all like to think of ourselves as people who are law-abiding and do not misappropriate others' property. There is a good argument to suggest that any determination to hang onto the name until faced with a legal threat, is quite unethical and morally questionable.

For those Clubs who have received constant reassurance that somehow, a deal is being worked out which will save the name, may we suggest that you refer to PSPL's just published Annual Financial Report, a copy of which is attached. May we draw your attention to pages 7 and 17 which contain references to the NZ situation. These are reproduced below and fully re-affirm the position as outlined by PSPL's CEO earlier this year.

**Page 7. NEW ZEALAND.** In recent years, our Annual Reports have drawn attention to the difficulties being experienced in the operation of Probus in New Zealand. The difficulties resulted in the disaffiliation of a large number of our formerly accredited Clubs and considerable confusion in the marketplace. However, during the year, the rights to ownership and use of the Probus name and trademarks in New Zealand were clarified in the Courts.

**The right to use the name is now restricted to PSPL affiliated Clubs only.** In this new situation, it is hoped that the issues we face in New Zealand can soon be resolved.

**Page 17.** The legal proceedings commenced in the previous year against an unaccredited body and a number of disaffiliated Probus clubs in New Zealand for their unlawful use of the Probus name were finalised with the judgment in favour of PSPL. The effect of the judgment means that only those clubs accredited to PSPL are entitled to use the Probus name and use the registered trademarks.

**Although PSPL did not want to engage in such action, Directors and Management are committed to the success of Probus in both Australia and New Zealand and will continue to defend the integrity of Probus as well as the Company's intellectual property.**

The AFR also records on page 19, that PSPL spent some AU\$197,033 on the Protection of intellectual property but recovered AU\$16,112 in the year under review. (This is assumed to be a write-back of an expense provision should NZ Clubs have appealed the High Court decision).

***We continue to question why anyone could believe that the owner of an intellectual property right, gained at such huge expense, would suddenly assume the mantle of benevolence.***

**REBUS's success to date.** Previous Newsletters have highlighted how REBUS differs in its perception of what NZ Clubs really want. Yes, a straight forward Service Centre with no political trappings, modest expenditure and directed by very experienced former Probians who are dedicated to providing an alternative type of affiliation model. More time for doing what the majority of our members want - the three FFFs!

We quote from an unsolicited letter received from a Rebus Club which is reproduced with their consent:

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**Date:** 17/06/2016 13:53:48

To the Rebus Team

What a pleasure to be affiliated to an efficient well run organisation that Rebus NZ Incorporated is. As secretary for the past three and half years of the River City Probus Club (now River City Rebus Club) the position has been one of turmoil having a constantly filled email box resulting in several volumes of hard copy information

Belonging to Rebus has reduced the secretarial work load to almost nil which now lets our committee's energies go to what we were originally set up to do that being providing fun fellowship and friendship for our members uninterrupted

Another positive is that I believe it will be considerably easier to attract members to come on the committee as there now is no longer the disharmony and allegations we have had to put up with through mismanagement that resulted in considerable work load keeping members informed

We have been very fortunate that our members and committee were very supportive of affiliation to Rebus Inc. and that it has been a very smooth transition. Hopefully many more clubs will affiliate to Rebus Inc. and enjoy the simple concept as we now have found. Congratulations to the team who initiated Rebus Inc. may it long continue

Kind Regards, Phyl van den Broek, Secretary, River City Rebus Club, Wanganui.

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**PSPL's Proposed new Constitution.** For your interest, a critique of this document from respected Australian Lawyer Colin Hiles, is also attached.

Very best regards,

**THE REBUS TEAM.**