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NEWS

Disabled man wins 16-year fight with Public Trustee



by EPRAIN

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A DISABLED man has won his fight to regain control of his finances following a "long, hard and arduous" 16-year battle with the State Government body appointed to manage his estate.

Clinton VanDenBerg's life changed forever in 1988, when a 10-tonne semi-trailer, driven by a 17-year-old unlicensed driver, slammed into his family's car. The crash killed his sister, broke vertebrae in his mum's back and left him with a permanent brain injury.

"My life was totally destroyed," he said.

"Because of the fracture to my skull, by order of the court, the Public Trustee Queensland (PTQ) had to handle my finances."

Mr VanDenBerg, now 39, received an \$807,000 Supreme Court payout nine years after the harrowing ordeal but his ability to manage his own affairs was restricted when he was placed under financial administration.

"Medical fees were paid, I obtained a home, and legal fees were paid," he said.

"(PTQ) ended up having \$550,000 to invest which was supposed to last me for the rest of my life."

The intelligent and well-spoken Mr VanDenBerg, whose only visible indication of a brain injury is his slow speech, claims the PTQ "lost" \$95,000 of his money during the Global Financial Crisis, which he believes was placed into investments which produced a negative return.

He also disputes more than \$70,000 in fees and charges he paid during those 16 years.

"I was told I only had to pay \$25,000 for managing my affairs," he said.

Mr VanDenBerg said his bank account balance had depleted so much that when the Queensland Civil and Administrative Tribunal (QCAT) awarded him full control of his finances on March 20, he was left with \$1500 in his bank account.

An opportunity came up in 1997 for Mr VanDenBerg to invest in a set of units on Bourbong St for \$80,000, but his application for the money was denied by the PTQ.

"The office said I didn't have the capacity to decide what my money was getting invested in," he said.

"The person who bought them is still sitting pretty from what he's made.

"It's very degrading and upsetting to think people can treat others like that."

Mr VanDenBerg was given a medical report in 2003 from a doctor - which he passed on to the PTQ - that declared him capable of managing his own affairs.

But he says the report was ignored by PTQ and a review of his financial administration order was never carried out.

Public Trustee Queensland Client Services executive director Tony Steinmetz said they were appointed to manage Mr VanDenBerg's estate on December 18, 1996 and any applications to have an order revoked had to be made through QCAT.

"As early as August 6, 2003, there is a file notation to the effect that Clinton has been advised a number of times of his option to apply to (QCAT) to regain control of his affairs," he said.

But Mr VanDenBerg said he was never aware the tribunal existed back then.

Mr Steinmetz also claims PTQ was not aware of the medical report until June 2008 and that it "did not state that he is fully capable of managing his financial affairs".

"As the financial administrator, it is not normally PTQ's role to approach QCAT for declarations of capacity, however when the issue came to a head in late 2012, PTQ did apply for a directions hearing with QCAT," he said.

Up until February last year, Mr Steinmetz said PTQ had received \$332,688 in income on behalf of Mr VanDenBerg and paid a net \$964,932 on his behalf at his request, including the purchase of his Gooburrum home.

"As early as 2003, there are file notations of our warnings to Mr VanDenBerg that the current rate of expenditure of his funds is not sustainable over his expected life," he said.

"Mr VanDenBerg did make some adjustments to his expenditure but not sufficient to stop the overall depletion of funds."

There is no loss unless the investment is realised for less than its initial value, which did not occur," he said.

"What appears to be misinterpreted by Mr VanDenBerg is the fluctuation in value of the investment from time to time."

He has also said the PTQ's fees and charges were set by regulation under the Public Trustee Act 1978 and were designed to reflect the cost of services provided.

The Funds

During the 16 years the Public Trustee managed Clinton VanDenBerg's financial affairs, \$641,999 was invested into six different funds in 1998 and 2002

The PTQ claims \$557,686 was withdrawn during that 16-year period to service Mr VanDenBerg's expenditure

A total of \$276,679 was also received in dividends

Mr VanDenBerg has paid \$71,056 in fees and charges to PTQ

THE Public Trustee is a self-funding statutory authority which reports to Queensland Parliament through the state's Attorney-General.

Operating under The Public Trustee Act 1978, it offers a range of services including enduring powers of attorney, will-making, deceased estate administration, management of investments and trusts and financial administration for people with decision-making impairment.

Client services executive director Tony Steinmetz said PTQ currently provided financial management for about 8000 people, managed 3000 estates and looked after about 5000 trusts.

PTQ managed about \$2.25 billion in assets on behalf of clients, he said.

Its website states that it provides "economical and accessible investment, legal and associated services and act as an independent and impartial administrator, attorney and trustee for the people of Queensland".

A personal trust officer is appointed to assist each client with the management of his or her financial affairs.

