

IN THE FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY

NOTICE OF FILING

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CASE DETAILS

Case Number:

Case Description:

District Registry:

Document Type:



Warwick Soden

Dated:

Registrar

Note

This Notice forms part of the document and contains information that might otherwise appear elsewhere in the application. The Notice must be included in the document served on each party to the proceeding.



IN THE FEDERAL COURT OF AUSTRALIA
NEW SOUTH WALES
DISTRICT REGISTRY
GENERAL DIVISION

NO NSD 756 OF 2009

**AUSTRALIAN COMPETITION AND CONSUMER
COMMISSION**

Applicant

LEANNE RITA VASSALLO

First Respondent

AARON DAVID SMITH

Second Respondent

ORDER

JUDGE: Graham J
DATE OF ORDER: 24 August 2009
WHERE MADE: Sydney

THE COURT ORDERS THAT:

1. The interim injunctions ordered by Justice Moore on 30 July 2009 (paragraphs 1 – 5 inclusive) be dissolved.

AND THE COURT DECLARES THAT:

2. Between about June 2008 and July 2009, each of the First Respondent and the Second Respondent, by means of statements published on various websites at the addresses listed in Part A of Schedule 1 to this Order (**the Websites**), and in eBooks offered for sale on the Websites, including through testimonials, made representations to the effect that if a person followed the advice for the treatment of certain health conditions contained therein, the person's health would improve, and such representations were false, misleading or deceptive for the purposes of sections 52, 53(c) and 55 of the *Trade Practices Act 1974* (Cth).

AND, BY CONSENT, THE COURT ORDERS THAT:

3. The Second Respondent, by himself, his agents or otherwise:
 - 3.1. take all necessary steps to remove any existing delegation or host entries from the root name servers (**undelagate**) for each domain listed at Schedule 1 to this



- Application (each, a **Schedule Health domain**) of which The Go Daddy Inc (**Go Daddy**) is the domain name registrar;
- 3.2. take all necessary steps to cause Go Daddy or any other domain name registrar to undelegate any domains residing in an account in the name of the Second Respondent (whether solely in his name or otherwise) or otherwise controlled by the Second Respondent where that domain name is given to a website purporting to sell eBooks containing information about remedies or cures for health conditions (each, a **health remedy eBook domain**), including each domain registered with Go Daddy;
 - 3.3. be restrained from causing Go Daddy or any other domain name registrar to provide any delegation or host entries to the root name servers (**delegate**) for any Schedule Health domain; and
 - 3.4. be restrained from causing Go Daddy or any other domain name registrar to delegate any health remedy eBook domain.
4. The First Respondent, by herself, her agents or otherwise, be restrained from:
 - 4.1. causing Go Daddy or any other domain name registrar to delegate any Schedule Health domain; and
 - 4.2. causing Go Daddy or any other domain name registrar to delegate any health remedy eBook domain.
 5. The First Respondent, by herself, her agents or otherwise, be restrained from representing on any website, or by any other means, any of the following:
 - 5.1. a specific treatment, plan of treatment or other recommendation which is for the treatment of a health condition (**Treatment Plan**) purchased from a website registered to either the First Respondent or the Second Respondent, or her or his agents is effective in treating a specific health condition;
 - 5.2. a person who is attesting to the health benefits of a Treatment Plan available for purchase from a website registered to either the First Respondent or the Second Respondent, or her or his agents, has experienced an improvement in his or her health condition as a result of following the Treatment Plan; or
 - 5.3. a person who has purchased a Treatment Plan, whether in an eBook or in any other form, from any website registered to either the First Respondent or the Second Respondent, or her or his agents, has recorded, on that website, a positive testimonial in respect of the Treatment Plan.
 6. The Second Respondent, by himself, his agents or otherwise, be restrained from representing on any website, or by any other means, any of the following:



- 6.1. a Treatment Plan purchased from a website registered to either the First Respondent or the Second Respondent, or her or his agents is effective in treating a specific health condition;
 - 6.2. a person who is attesting to the health benefits of a Treatment Plan available for purchase from a website registered to either the First Respondent or the Second Respondent, or her or his agents, has experienced an improvement in his or her health condition as a result of following the Treatment Plan; or
 - 6.3. a person who has purchased a Treatment Plan, whether in an eBook or in any other form, from any website registered to either the First Respondent or the Second Respondent, or her or his agents, has recorded, on that website, a positive testimonial in respect of the Treatment Plan.
7. The First Respondent by herself, her agents or otherwise, be restrained from representing, by means of the words used in the domain name of any website registered to her, the purported effectiveness of any Treatment Plan promoted on the relevant website.
 8. The Second Respondent by himself, his agents or otherwise, be restrained from representing, by means of the words used in the domain name of any website registered to him, the purported effectiveness of any Treatment Plan promoted on the relevant website.

AND THE COURT ORDERS THAT:

9. The Respondents pay the Applicant's costs in an amount to be agreed, or in lieu of agreement, as taxed.

Date that entry is stamped:

Deputy District Registrar



NOTICE pursuant to Order 37 sub rule 2(3) of the Federal Court Rules

TO: LEANNE RITA VASSALLO

AARON DAVID SMITH

You are liable to imprisonment or to sequestration of property if:

- (a) where these Orders require you to do an act within a specified time, you refuse or neglect to do the act within that time; or
- (b) where these Orders require you to abstain from doing an act, you disobey the Orders.



SCHEDULE 1

PART A

1. asthmadefeated.com
2. endometriosisdefeated.com
3. fibromyalgiacured.com
4. genitalherpesdiet.com
5. hemochromatosiscure.com
6. lymediseasediet.com
7. menopausedefeated.com
8. myastheniagraviscure.com
9. sarcoidosiscure.com
10. sclerodermadefeated.com
11. sebaceouscystcure.com
12. shingles-cure.com
13. the prostatecancerdiet.com
14. mmsolution.org
15. addisonsdiseasediet.com
16. anemiadefeated.com
17. cellulitedefeated.com
18. colitiscured.com
19. colitis-cme.com
20. cureyourgerd.com
21. diverticulitisinstitute.com
22. endometriosis-nutrition.com
23. healgenitalwarts.com
24. hemochromatosisdiet.com
25. menopausedietcure.com
26. mmszone.org
27. multiplesclerosisgone.com
28. refluxrecovery.com
29. staphinfectioncure.com
30. shinglesrecipe.com
31. tourettes-disorder.com
32. tuberculosiscured.com
33. thebreastcancerdiet.com

PART B

34. treat-heartburn.com



35. theringwormcure.com
36. cureyourulcer.com
37. homeulcercure.com
38. simpleshinglescure.com
39. simplerefluxcure.com
40. simplescabiescure.com
41. simplecystcure.com
42. azpirehealth.com
43. desirealife.com
44. womans-life.com
45. hivescure.com
46. thecureforgenitalwart.com
47. genitalherpescured.com
48. ganglioncystcure.com
49. mononucleosiscure.com
50. myastheniagraviscure.com
51. gullianbarresyndromecure.com
52. addisonsdiseasecure.com
53. tourettes-disorder.com
54. schizophreniacured.com
55. dyslexiadefeated.com
56. impetigocured.com
57. gonorrhoeacured.com
58. laryngitiscured.com
59. diverticultiscure.com
60. energysymbols.com