



Federal Court of Australia

District Registry: Victoria

Division: General

No: VID535/2016

DIRECTOR OF CONSUMER AFFAIRS VICTORIA

Applicant

ANNABELLE NATALIE GIBSON and another named in the schedule

First Respondent

ORDER

JUDGE: JUSTICE MORTIMER

DATE OF ORDER: 07 April 2017

WHERE MADE: Melbourne

PENAL NOTICE

NOTICE PURSUANT TO RULE 41.06 OF THE FEDERAL COURT RULES 2011

**TO: Annabelle Natalie Gibson
Inkerman Road Nominees Pty Ltd (ACN 164 850 748)**

IF YOU:

- (A) REFUSE OR NEGLECT TO DO ANY ACT WITHIN THE TIME SPECIFIED IN THIS ORDER FOR THE DOING OF THE ACT; OR**
- (B) DISOBEY THE ORDER BY DOING AN ACT WHICH THE ORDER REQUIRES YOU TO ABSTAIN FROM DOING,**

YOU WILL BE LIABLE TO IMPRISONMENT, SEQUESTRATION OF PROPERTY OR OTHER PUNISHMENT.

ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS YOU TO BREACH THE TERMS OF THIS ORDER MAY BE SIMILARLY PUNISHED.



THE COURT DECLARES THAT:

Misleading or deceptive conduct (s 18 Australian Consumer Law (Cth) and Australian Consumer Law (Vic))

1. Annabelle Natalie Gibson engaged in conduct in trade or commerce which was misleading or deceptive or likely to mislead or deceive contrary to s 18 of the Australian Consumer Law (Vic) in that, from approximately July 2013, she made claims in connection with the development, promotion and sale of the Whole Pantry App and the Whole Pantry book that she:
 - (a) had been diagnosed with brain cancer in 2009;
 - (b) was given four months to live; and
 - (c) had taken and then rejected conventional cancer treatments in favour of embarking on a quest to heal herself naturally.

2. The Second Respondent engaged in conduct in trade or commerce which was misleading or deceptive or likely to mislead or deceive contrary to s 18 of the Australian Consumer Law (Cth) and s 18 of the Australian Consumer Law (Vic) in that, from about July 2013, it made claims in connection with the development, promotion and sale of the Whole Pantry App and the Whole Pantry book that Annabelle Natalie Gibson:
 - (a) had been diagnosed with brain cancer in 2009;
 - (b) was given four months to live; and
 - (c) had taken and then rejected conventional cancer treatments in favour of embarking on a quest to heal herself naturally.

3. Annabelle Natalie Gibson engaged in conduct in trade or commerce which was misleading or deceptive or likely to mislead or deceive contrary to s 18 of the Australian Consumer Law (Vic) in that between December 2013 and March 2015 she represented that:
 - (a) a portion of all revenue from sales of the Whole Pantry App would be donated to charities or good causes, when in fact that was not the case, as the only donation from sales of approximately \$308,000 was the sum of \$2,790 to the



Bumi Sehat Foundation, attributable to App sales and forming part of a \$5,000 donation to that Foundation;

- (b) the donations from the sale of the Whole Pantry App would be made within a reasonable time of receipt, when in fact the only donation was made over a year later;
- (c) a large part of everything the Second Respondent earned would be donated to charities or good causes, when in fact that was not the case, as under \$10,000 was donated from its earnings of approximately \$420,000;
- (d) the proceeds of the sale of “virtual tickets” to the launch of the Whole Pantry App would be donated to:
 - (i) the Birthing Kit Foundation;
 - (ii) One Girl;
 - (iii) the Asylum Seeker Resource Centre; and
 - (iv) the Schwarz family;

when in fact that was not the case as One Girl received \$1,000 over a year later and the remaining three groups received no donation from the sale proceeds;

- (e) one hundred percent of the proceeds of the sales of the Whole Pantry App for a week in December 2013 would be donated to the Schwarz family, when in fact no such donation was ever made; and
- (f) the full amount of each purchase of the Whole Pantry App, and an additional \$1 for posts with a family theme for a week around Mother’s Day 2014 would be donated, within a reasonable period of time following 22 May 2014, to:
 - (i) The 2h Project; and
 - (ii) the Bumi Sehat Foundation;

when in fact no donations were made within a reasonable period to either cause, and the donation to the Bumi Sehat Foundation was made more than a year later, from funds that were not attributable to the Mother’s Day week sales.



4. The Second Respondent engaged in conduct in trade or commerce which was misleading or deceptive or likely to mislead or deceive contrary to s 18 of the Australian Consumer Law (Cth) and the Australian Consumer Law (Vic) in that between December 2013 and March 2015 it represented that:
- (a) a portion of all revenue from sales of the Whole Pantry App would be donated to charities or good causes, when in fact that was not the case, as the only donation from sales of approximately \$308,000 was the sum of \$2,790 to the Bumi Sehat Foundation, attributable to App sales and forming part of a \$5,000 donation to that Foundation;
 - (b) the donations from the sale of the Whole Pantry App would be made within a reasonable time of receipt, when in fact the only donation was made over a year later;
 - (c) a large part of everything it earned would be donated to charities or good causes, when in fact that was not the case, as under \$10,000 was donated from its earnings of approximately \$420,000;
 - (d) the proceeds of the sale of “virtual tickets” to the launch of the Whole Pantry App would be donated to:
 - (i) the Birthing Kit Foundation;
 - (ii) One Girl;
 - (iii) the Asylum Seeker Resource Centre; and
 - (iv) the Schwarz family;when in fact that was not the case as One Girl received \$1,000 over a year later and the remaining three groups received no donation from the sale proceeds;
 - (e) one hundred percent of the proceeds of the sales of the Whole Pantry App for a week in December 2013 would be donated to the Schwarz family, when in fact no such donation was ever made; and
 - (f) the full amount of each purchase of the Whole Pantry App, and an additional \$1 for posts with a family theme for a week around Mother’s Day 2014 would be donated, within a reasonable period of time following 22 May 2014, to:



- (i) The 2h Project; and
- (ii) the Bumi Sehat Foundation;

when in fact no donations were made within a reasonable period to either cause, and the donation to the Bumi Sehat Foundation was made more than a year later, from funds that were not attributable to the Mother's Day week sales.

Unconscionable conduct (s 21 Australian Consumer Law (Cth) and Australian Consumer Law (Vic))

5. Annabelle Natalie Gibson engaged in unconscionable conduct in trade or commerce in contravention of s 21 of the Australian Consumer Law (Vic) in that between December 2013 and March 2015 she made claims that:
- (a) a portion of all revenue from sales of the Whole Pantry App would be donated to charities or good causes, when in fact that was not the case, as the only donation from sales of approximately \$308,000 was the sum of \$2,790 to the Bumi Sehat Foundation, attributable to App sales and forming part of a \$5,000 donation to that Foundation.
 - (b) the donations from the sale of the Whole Pantry App would be made within a reasonable time of receipt, when in fact that was not the case as the only donation was made over a year later;
 - (c) a large part of everything the Second Respondent earned would be donated to charities or good causes, when in fact that was not the case, as under \$10,000 was donated from its earnings of approximately \$420,000;
 - (d) the proceeds of the sale of "virtual tickets" to the launch of the Whole Pantry App would be donated to:
 - (i) the Birthing Kit Foundation;
 - (ii) One Girl;
 - (iii) the Asylum Seeker Resource Centre; and
 - (iv) the Schwarz family;



when in fact that was not the case as One Girl received \$1,000 over a year later and the remaining three groups received no donation from the sale proceeds;

- (e) one hundred percent of the proceeds of the sales of the Whole Pantry App for a week in December 2013 would be donated to the Schwarz family, when in fact no such donation was ever made; and
- (f) the full amount of each purchase of the Whole Pantry App, and an additional \$1 for posts with a family theme for a week around Mother's Day 2014 would be donated, within a reasonable period of time following 22 May 2014, to:
 - (i) The 2h Project; and
 - (ii) the Bumi Sehat Foundation;

when in fact no donations were made within a reasonable period to either cause, and the donation to the Bumi Sehat Foundation was made more than a year later, from funds that were not attributable to the Mother's Day week sales.

6. The Second Respondent engaged in unconscionable conduct in trade or commerce in contravention of s 21 of the Australian Consumer Law (Cth) and the Australian Consumer Law (Vic) in that between December 2013 and March 2015 it made claims that:

- (a) a portion of all revenue from sales of the Whole Pantry App would be donated to charities or good causes, when in fact that was not the case, as the only donation from sales of approximately \$308,000 was the sum of \$2,790 to the Bumi Sehat Foundation, attributable to App sales and forming part of a \$5,000 donation to that Foundation;
- (b) the donations from the sale of the Whole Pantry App would be made within a reasonable time of receipt, when in fact that was not the case as the only donation was made over a year later;
- (c) a large part of everything it earned would be donated to charities or good causes, when in fact that was not the case, as under \$10,000 was donated from its earnings of approximately \$420,000;



(d) the proceeds of the sale of “virtual tickets” to the launch of the Whole Pantry App would be donated to:

- (i) the Birthing Kit Foundation;
- (ii) One Girl;
- (iii) the Asylum Seeker Resource Centre; and
- (iv) the Schwarz family;

when in fact that was not the case as One Girl received \$1,000 over a year later and the remaining three groups received no donation from the sale proceeds;

(e) one hundred percent of the proceeds of the sales of the Whole Pantry App for a week in December 2013 would be donated to the Schwarz family, when in fact no such donation was ever made; and

(f) the full amount of each purchase of the Whole Pantry App, and an additional \$1 for posts with a family theme for a week around Mother’s Day 2014 would be donated, within a reasonable period of time following 22 May 2014, to:

- (i) The 2h Project; and
- (ii) the Bumi Sehat Foundation;

when in fact no donations were made within a reasonable period to either cause, and the donation to the Bumi Sehat Foundation was made more than a year later, from funds that were not attributable to the Mother’s Day week sales.

THE COURT ORDERS THAT:

7. Pursuant to s 232 of the Australian Consumer Law (Vic), Annabelle Natalie Gibson is prohibited from making any or all of the following claims, in connection with the development, sale or promotion of health and wellbeing advice:

- (a) that she had been diagnosed with brain cancer at any time prior to 24 May 2016;
- (b) that she was given four months to live; and/or

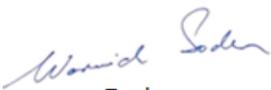


- (c) that she had taken and then rejected conventional cancer treatments in favour of embarking on a quest to heal herself naturally.
8. Pursuant to s 232 of the Australian Consumer Law (Cth) and s 232 of the Australian Consumer Law (Vic), the Second Respondent is prohibited from making any or all of the following claims, in connection with the development, sale or promotion of health and wellbeing advice:
- (a) that Ms Gibson had been diagnosed with brain cancer at any time prior to 24 May 2016;
 - (b) that Ms Gibson was given four months to live; and/or
 - (c) that Ms Gibson had taken and then rejected conventional cancer treatments in favour of embarking on a quest to heal herself naturally.
9. Annabelle Natalie Gibson pay a contribution towards the applicant's costs, fixed in the amount of \$30,000, such amount to be payable within 60 days of the date of these orders.
10. A copy of these Orders be served personally on Annabelle Natalie Gibson in accordance with s 41.07 of the *Federal Court Rules 2011* (Cth).

THE COURT DIRECTS THAT:

- 11. The proceeding be adjourned to a date to be fixed for consideration of penalty and orders relating to public notices.

Date that entry is stamped: 7 April 2017


Registrar



Schedule

No: VID535/2016

Federal Court of Australia
District Registry: Victoria
Division: General

Second Respondent INKERMEN ROAD NOMINEES PTY LTD (ACN 164 850 748)
(IN LIQUIDATION)