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J. Farrell for A/L
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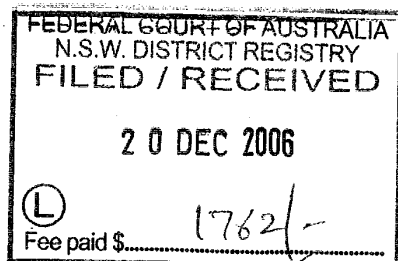
ORIGINAL

NSD 24 90 / 2006

IN THE FEDERAL COURT OF AUSTRALIA
NEW SOUTH WALES DISTRICT REGISTRY

No.

of 2006



DAVID JONES LIMITED
(ACN 000 074 573)
Applicant

THE AUSTRALIA INSTITUTE LIMITED
(ACN 061 969 284)
First Respondent

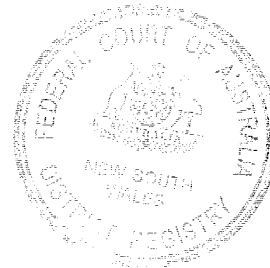
CLIVE HAMILTON
Second Respondent

APPLICATION

The Applicant seeks damages, injunctions, costs and other orders pursuant to sections 80, 82 and 87 of the *Trade Practices Act 1974* (Cth) (TPA) against the First and Second Respondents (the **Respondents**) in respect of their contraventions of the TPA on the grounds set out in the accompanying Statement of Claim.

A. Details of Claim

On the grounds appearing in the Statement of Claim, the Applicant claims:



Declarations

- 1 A declaration that in causing the Media Release (as defined in paragraph 5 of the Statement of Claim) to be issued, the First Respondent and the Second Respondent, in trade or commerce, engaged in conduct which was misleading or deceptive and/or likely to mislead or deceive, in contravention of section 52 of the TPA.
- 2 Further and in the alternative, insofar as the contravention in (2) above was by the First Respondent only, a declaration that the Second Respondent aided, abetted, counseled or procured or was knowingly concerned or a party to the contravention and is thereby a person involved in the contravention within the meaning of section 75B of the TPA.

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264 George Street
SYDNEY NSW 2000

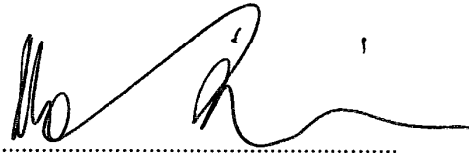
Tel (02) 8274 9555
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Orders

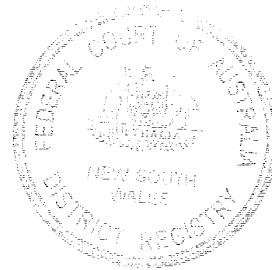
- 3 An order pursuant to section 80 of the TPA restraining the Respondents whether by themselves, their directors, officers, servants and/or agents or otherwise, in trade or commerce, from causing to be issued, published or distributed by any means or otherwise making any of the Representations in the terms or to the effect of those set out in paragraph 6 of the Statement of Claim.
- 4 An order pursuant to section 80, or alternatively section 87, of the TPA that, within ten days of the making of this Order, the Respondents issue, publish and/or distribute, at their own expense, a corrective media release in the form of the Corrective Media Release (set out in Schedule A of the Statement of Claim) or in such form as determined by the Court, to be issued, published and/or distributed in the same manner as the Media Release (as defined in paragraph 5 of the Statement of Claim) and published on the First Respondent's website at www.tai.org.au, in the next edition of the First Respondent's newsletter and in the next email update by the First Respondent to its members.
- 5 Damages pursuant to section 82 of the TPA.
- 6 Such further or other orders as the Court sees fit.
- 7 Costs.

B. Claim for Interlocutory Relief

Dated: December 2006



Mark O'Brien
Partner
Johnson Winter & Slattery
Solicitors for the Applicant



"A"
FORM OF APOLOGY

This apology is published pursuant to an order of the Federal Court of Australia made on *[insert date]*.

On 9 October 2006 The Australia Institute issued a Media Release entitled "Corporate Paedophilia – Sexualising children by advertising and marketing" to publicise our report prepared on that subject.

The Media Release named retailer David Jones and in doing so suggested that David Jones is responsible for advertising which portrays children in a sexually exploitative way.

That is not a conclusion which is reached in the report which was the subject of the Media Release. David Jones advises us and we accept that David Jones takes care to ensure that children are portrayed in keeping with the family values for which David Jones is known. David Jones advises that they have in place policy and procedures to ensure that children are portrayed appropriately and sensitively, without poses or expressions that could be construed as being provocative or exploitative and without the use of make up.

The Australia Institute withdraws the suggestion that David Jones or its employees acts without conscience or care in relation to this matter and apologies for any damage that may have been caused by the Media Release.

