

19 April 2002

Federal Court Declares Debt Collection Agency Misled Consumers About Debts Owed to Insurance Company

The Federal Court of Australia, Adelaide has declared that the debt collection agency, Waterman Collections Pty Ltd, engaged in misleading and deceptive conduct when attempting to recover debts on behalf of the insurance company NRMA (now known as Insurance Australia Group Ltd).

The NRMA was not involved in Waterman's conduct.

"This result sends a message to all debt collection agencies that unfair tactics and misleading conduct in the pursuit of their business will not be tolerated either by the court or the ACCC", ACCC Chairman, Professor Allan Fels, said today. "Debt collection agencies must not demand payment from consumers with the threat of legal action without having a reasonable basis for making that demand".

The ACCC alleged that between February 2000 and June 2001 Waterman sent letters to over 850 persons who were involved in accidents with NRMA-insured drivers. The letters claimed that \$3171 was "overdue" and threatened to carry out "further action without notice" if the amount was not paid within seven days. However, the \$3171 figure was not the actual liability of those persons because at the time it sent the letters it had no information about the cost of repairs.

As a result of Waterman's conduct the court:

- declared that Waterman had engaged in misleading and deceptive conduct in contravention of section 52 of the Trade Practices Act, 1974;
- granted injunctions which restrain Waterman for three years from making representations to any person that they have an overdue debt or liquidated liability if Waterman does not have a reasonable basis for making that representation;
- ordered that, within a period of three months, Waterman must comprehensively review and upgrade its current trade practices compliance program according to a schedule set down by the court, do its best to ensure the program complies with the Australian Standard and implement the program once the review and upgrade has been completed; and § ordered Waterman to pay the ACCC's costs.

All of the orders of the court were made with the consent of the respondent.

"The ACCC is pleased with the outcome in this case", Professor Fels said. "This sort of behaviour deserves court action. Anyone who is involved in a car accident is usually already distressed about that and this type of conduct just causes them further unnecessary distress".

Further information on the Trade Practices Act 1974 as it relates to debt collection is contained in the ACCC guidelines, [Debt Collection and the Trade Practices Act](#), available on the ACCC website and from all ACCC offices.

Further information

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