

WITHOUT PREJUDICE UNTIL EXECUTED E



TRADE PRACTICES ACT 1974

UNDERTAKING TO THE TRADE PRACTICES COMMISSION GIVEN PURSUANT
TO SECTION 87B

by

MAYNE NICKLESS LIMITED (ACN 004 073 410)
OF 390 ST KILDA ROAD, MELBOURNE IN THE STATE OF VICTORIA

Background

1. Mayne Nickless Limited ("Mayne Nickless") is a company which at all material times has provided a range of security services in the Brisbane metropolitan area under the business name "M.S.S. Security Services".
2. The Trade Practices Commission ("TPC") recently carried out an investigation and then commenced proceedings against Mayne Nickless, in respect of its business carried on under the name "Metropolitan Security Services". It is the contention of the TPC that MSS has not in the past always provided the number of inspections it contracted to provide to its mobile security patrol service customers in the Brisbane metropolitan area. Investigations into the matters raised by the Commission have indicated that the number of inspections as represented by MSS to various customers of MSS in the Brisbane metropolitan area were not always provided on each and every night. Whilst MSS cannot establish what and when inspections were not provided, it believes that, in some instances, services have not been provided as contracted. In light of this, MSS has admitted that it breached section 52 of the Trade Practices Act. MSS sincerely regrets this service failure.
3. In order to ensure contracted service levels are maintained in the Brisbane metropolitan area at all times in the future, MSS has taken the following steps:
 - (a) MSS has introduced a computerised system of monitoring the provision of MSS' patrol services, known as "Smartguard". This system provides a means of independently verifying the attendances of MSS patrol staff at customer premises, by electronically recording the times, dates and locations of those attendances. This electronic recording gives MSS the ability to provide customers with proof of attendances if requested. Smartguard has been installed by MSS on all permanent customers' premises in the Brisbane Metropolitan Area.
 - (b) MSS has introduced a new contract which better explains, and has required its sales staff to verify that they have explained to customers, the "shared" nature of the service to be provided.

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- (c) MSS has implemented additional procedures for monitoring patrol attendances and checking contracted service levels are met, including a system of reviews of inspection records produced by Smartguard.
4. Mayne Nickless has conducted a trade practices compliance presentation at MSS Brisbane. This presentation placed particular emphasis on the consumer protection provisions of the Trade Practices Act.

Undertaking

Subject to the condition precedent referred to below, Mayne Nickless undertakes for the purposes of section 87B of the Act:

1. To write a letter to each current and former mobile security patrol customer in the Brisbane metropolitan area who had contracted with MSS to purchase mobile patrol security services on a permanent basis (for 3 continuous months or more) from 1 July 1990 to mid 1994. In this letter MSS will offer credits to current customers and offer an amount of free service or money in lieu to former customers, calculated in the manner set out in the letter. This letter will also advise them of the TPC's inquiry and subsequent legal action, and incorporate an admission that MSS breached section 52 of the Trade Practices Act.
2. The form of the letter referred to in paragraph 1 is annexed hereto and marked "Annexure A".
3. Mayne Nickless Limited is presently developing an interactive computer program to educate its relevant employees (current and future) about compliance with the Trade Practices Act. This program will involve those employees completing the computer program (including a testing module) to a satisfactory level. Employees will be required to undertake and complete the program on subsequent occasions to ensure they are reminded on a continuing and regular basis about the Act and its obligations.

Mayne Nickless acknowledges and accepts that this undertaking will be placed on the TPC's public register and agrees that the TPC may otherwise publish and refer to this document at its discretion.

Condition Precedent

It is a condition precedent to the operation of this undertaking that the proceedings No QG110 of 1994 in the Brisbane Registry of the Federal Court of Australia be finalised by way of an injunction and other orders by consent on 30 June 1995, or such other date as agreed in writing between the parties' or their legal representatives, and until that time this undertaking has no effect.

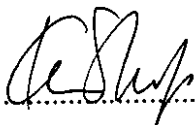



WITHOUT PREJUDICE UNTIL EXECUTED BY BOTH PARTIES

IN WITNESS OF THIS UNDERTAKING:

This 27th day of JUNE 1995

THE COMMON SEAL of MAYNE)
NICKLESS LIMITED was affixed in)
accordance with its Articles of)
Association:)


.....
Secretary
Name (printed): K M SUEER


.....
Director
Name (printed):
I.E. WEBBER

ACCEPTED BY THE TRADE PRACTICES COMMISSION PURSUANT TO SECTION
87B OF THE TRADE PRACTICES ACT


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ANNEXURE A

MSS LETTERHEAD

LETTER TO BRISBANE METROPOLITAN CUSTOMERS

Dear Customer,

The Trade Practices Commission recently carried out an investigation and then filed proceedings against Mayne Nickless Limited, in respect of its business carried on under the name of MSS Security Services.

The Commission contended that MSS has not in the past always provided the number of inspections it contracted to provide to its mobile security patrol service customers in the Brisbane metropolitan area.

Investigations into the matters raised by the Commission have indicated that the number of inspections as represented by MSS to various customers of MSS in the Brisbane metropolitan area were not always provided on each and every night. In light of this, MSS has admitted that it breached section 52 of the Trade Practices Act.

MSS sincerely regrets this service failure.

In order to ensure contracted service levels are maintained in the Brisbane metropolitan area at all times in the future, MSS has taken the following steps:

1. MSS has introduced a computerised system of monitoring the provision of MSS' patrol services, known as "Smartguard". This system provides a means of independently verifying the attendances of our patrol staff at customer premises, by electronically recording the times, dates and locations of those attendances. This electronic recording gives MSS the ability to provide customers with proof of attendances if requested. Smartguard has been installed on all permanent customers' premises in the Brisbane Metropolitan Area.
2. MSS has introduced a new contract which better explains, and has required its sales staff to verify that they have explained to customers, the "shared" nature of the service to be provided.
3. MSS has implemented additional procedures for monitoring patrol attendances and checking contracted service levels are met, including a system of reviews of inspection records produced by Smartguard.

MSS is also offering an amount of free service (as set out below) to all mobile security patrol customers in the Brisbane metropolitan area who had contracted with MSS to purchase mobile patrol security services on a permanent basis (for 3 continuous months or more) from 1 July 1990 to mid 1994. Please note that MSS cannot establish what and when inspections were not provided - this offer is made as a gesture in recognition of MSS' concern that in some instances services have not been provided



as contracted, and acceptance of this offer does not extinguish any rights which you may otherwise have.

The number of weeks of free service offered is calculated as follows:

1. those customers who were customers of MSS during the period from 1 July 1990 to mid 1994 for 3 months or more, but less than 1 year - one week of free service,
2. those customers who were customers of MSS during the period from 1 July 1990 to mid 1994 for one year or more, but less than two years - two weeks of free service,
3. those customers who were customers of MSS during the period from 1 July 1990 to mid 1994 for two years or more, but less than three years - three weeks of free service, and
4. those customers who were customers of MSS during the period from 1 July 1990 to mid 1994 for three years or more - four weeks of free service.

[If a current customer]

Our records show that on this basis, you are entitled to [] week/s of free service and this offer is for the provision of mobile patrol security services consistent with that currently contracted to you. As you are a current customer of MSS, this amount of free service (valued at \$[]) will be credited to your account.

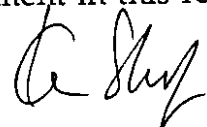
[If no longer a current customer]

Our records show that on this basis, you are entitled to the value of [] week/s of free service consistent with the mobile patrol security service that was contracted to you at the time you ceased to be a customer - this is calculated to be \$[]. As you are no longer a current customer of MSS, and recognising that your security requirements may have changed, our offer can be taken up by you in either of the following ways:

- (a) you may choose to accept this amount in the form of a cheque payment; or
- (b) you may choose to resume a patrol service with MSS pursuant to our standard mobile patrol service contract, and receive the amount as an opening credit against the cost of whatever service is chosen by you.

To take advantage of this offer, please contact our Brisbane office by telephone on 854 1477 to make appropriate arrangements.

In conclusion, we again express our regret in relation to past service failures - we earnestly believe the remedial steps we have taken will ensure this problem does not occur again and we wish to assure you of our genuine commitment in this regard.



3.

The terms of this letter have been prepared in consultation with the Trade Practices Commission.

Yours faithfully,

A handwritten signature in cursive script, followed by a decorative flourish or checkmark-like mark.