



Federal Court of Australia

District Registry: Queensland

Division: General

No: QUD374/2020

**AUSTRALIAN COMPETITION AND CONSUMER COMMISSION**

Applicant

**J HUTCHINSON PTY LTD (ACN 009 778 330)** and another named in the schedule  
Respondents

**ORDER**

**JUDGE:** JUSTICE DOWNES

**DATE OF ORDER:** 30 August 2022

**WHERE MADE:** Brisbane

**PENAL NOTICE**

**TO: J HUTCHINSON PTY LTD (ACN 009 778 330) AND CONSTRUCTION, FORESTRY, MARITIME, MINING AND ENERGY UNION**

**IF YOU (BEING THE PERSONS BOUND BY THIS ORDER):**

- (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 NOT TO DO,**

**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.**



In this Order, the reference to the February Orders means the Orders dated 14 February 2022, as subsequently amended, in which it was declared that:

1. The first respondent contravened s 45E(3) of the *Competition and Consumer Act 2010* (Cth) by making an arrangement or arriving at an understanding with the second respondent containing a provision to the effect that the first respondent would no longer acquire waterproofing services from Waterproofing Industries Qld Pty Ltd (WPI) at the Southpoint A construction project, and further, that it would terminate its subcontract with WPI, which provision would prevent or hinder the first respondent from acquiring or continuing to acquire services from WPI (boycott provision).
2. By ceasing to acquire waterproofing services from WPI at the Southpoint A construction project and, further, by terminating its subcontract with WPI, the first respondent gave effect to the boycott provision and thereby contravened s 45EA of the *Competition and Consumer Act 2010* (Cth).
3. The second respondent was knowingly concerned in, or party to, the contraventions by the first respondent of ss 45E(3) and 45EA of the *Competition and Consumer Act 2010* (Cth) within the meaning of s 76 of that Act.
4. The second respondent induced the first respondent's contraventions of ss 45E(3) and 45EA of the *Competition and Consumer Act 2010* (Cth) within the meaning of s 76 of that Act by threatening or implying that there would be conflict with, or industrial action by, the second respondent if the first respondent did not cease using WPI.

**THE COURT ORDERS THAT:**

1. By 1 October 2022, the first respondent shall pay to the Commonwealth of Australia, pursuant to s 76 of the *Competition and Consumer Act 2010* (Cth):
  - (a) a pecuniary penalty in the amount of \$300,000 in respect of its contravention of s 45E(3) of the Act declared in paragraph 1 of the February Orders; and
  - (b) a pecuniary penalty in the amount of \$300,000 in respect of its contravention of s 45EA of the Act declared in paragraph 2 of the February Orders.
2. By 1 October 2022, the second respondent shall pay to the Commonwealth of Australia, pursuant to s 76 of the *Competition and Consumer Act 2010* (Cth), a pecuniary penalty in the amount of \$750,000 in respect of:
  - (a) its conduct in being knowingly concerned in or party to the first respondent's contraventions of ss 45E(3) and 45EA of the Act declared in paragraph 3 of the February Orders; and
  - (b) its conduct of inducing the first respondent's contraventions of ss 45E(3) and 45EA of the Act by threatening or implying that there would be conflict with, or industrial action by, the second respondent if the first respondent did not cease using WPI, declared in paragraph 4 of the February Orders.



3. Pursuant to s 86D of the *Competition and Consumer Act 2010* (Cth), the second respondent shall, within 7 days of these orders being made:
  - (a) place a copy of these orders in a prominent place on the home pages of its website (<https://www.cg.cfmeu.org>) and of the website of the CFMMEU Queensland Northern Territory Division Branch (<https://www.qnt.cfmeu.org>), and take all reasonable steps to ensure that the said copies of these orders remain in a prominent place and visible on the home pages of each of these websites for a period of not less than 30 consecutive days; and
  - (b) provide a copy of these orders to each of its officers.
4. The first and second respondents shall pay the applicant's costs of and incidental to the proceedings, to be taxed if not agreed.

Date that entry is stamped: 1 September 2022

*Sia Lagos*  
Registrar



**Schedule**

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Second Respondent      CONSTRUCTION, FORESTRY, MARITIME, MINING AND  
ENERGY UNION