



ISO 9001:2000 LIC 5656

RBM Plastic Extrusions Pty Limited

ABN 64 000 464 960

32-40 Derby Street, Silverwater, NSW 2128

PO Box 6664, Silverwater, NSW 2128

Telephone: (02) 9748 2638

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15th January 2007

The General Manager

Adjudication Branch

Australian Competition and Consumer Commission

PO Box 1199

Dickson 2602

ACT

Dear Sir,

FILE No:	---
DOC:	
MARS/PRISM:	

Re: Objection to Exclusive Dealing notifications from Seal-A-Fridge Pty Ltd, Nigel Rooney and Linda Rooney. ACCC Ref: C2006/1981

My name is Tony McWilliam, and I am the General Manager / Director of RBM Plastic Extrusions Pty Ltd located at 32 – 40 Derby Street Silverwater 2128.

We are a local manufacturer and supplier of Extruded Flexible PVC Gasket Profile extrusions and magnetic strip used in the manufacture of refrigerator door gasket seals.

I have received a letter dated 21st December 2006 from Nadia Cooke, Australian Competition & Consumer Commission (Your Ref C2006/1981) regarding Notifications from Seal-A-Fridge, Nigel Rooney & Nigel Rooney and Linda Rooney to allow all parties Third Line Forcing and Exclusive Dealing Conduct, other than third line forcing.

In the particulars supplied to the ACCC, there are quite a number of inaccuracies and untruths, as well as disparaging comments made about our company and the products we manufacture, which we take exception to, as it tarnishes our company name and reputation.

We are currently discussing with our legal advisors, what legal action we can take in response to these serious allegations.

I am attaching a copy of a Letter I sent (dated 21st August 2006) to Alan Ducret from the ACCC Adelaide Street Brisbane office, which outlines our position in relation to Seal-A-Fridge Pty Ltd and its two registered principal operators, Nigel and Linda Rooney, regarding Third Line Forcing.

In the information Nigel Rooney has provided to ACCC there are a number of inaccuracies and for the record, I am confirming the following points:

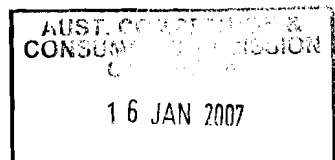
RBM Plastic Extrusions Pty Ltd has in place a registered Quality Management System that conforms to, and has been certified by **SAI Global** (formerly Australian Standards Association)

The registration covers the Quality Management System for the design and manufacture of extruded profiles and tubes from various polymers, and the manufacture of Flexible PVC Compounds and Coloured Masterbatch for extrusion, moulding and electrical cable manufacturing.

This ISO Certified Quality System was originally Certified in 1995 to AS/NZS ISO 9002 and was recently superceded by AS/NZS ISO 9001:2000.

The Official Licence Number is 5656 (copy enclosed)

Specialists in the extrusion of plastic profiles and tubes.



- **This is proof that RBM Plastic Extrusions is an ISO Certified manufacturer.**

Many years before Nigel Rooney commenced his Seal-A-Fridge Franchise operation, RBM Plastic Extrusions Pty Ltd were manufacturing and supplying refrigerator door gasket seals, to the original equipment manufacturers, in accordance to their Specifications.

- **We currently supply completed Refrigerator Door Gasket Seal Assemblies as Manufacturers Original Spare Parts to the Electrolux Group, which are individually packed in Cartons, with the Original Spare Part number marked on the Carton.**
- **Both the Flexible PVC Gasket and the Magnetic Strip manufactured and supplied by RBM Plastic Extrusions Pty Ltd, are manufactured in accordance to the Original Equipment Manufacturers Specifications, which are world wide Specifications.**

In correspondence supplied by SAF, Nigel Rooney even states that *in his opinion* the Original Equipment Manufacturers (Electrolux, Email, Kelvinator, Rank, Fisher & Paykel, etc) set a low standard for their raw materials! – This is a rather bold statement from a back yard operator, and I am sure that if the Original Equipment Manufacturers knew of his opinion, they would void any warranty for any of their products, that use any of the Seal-A- Fridge replacement products!

We manufacture a range of both Flexible PVC Profiles and various sized Magnetic Strip Profiles depending on the manufacturers specifications. We currently manufacture over 100 various sized Magnetic Strip Profiles, and are cutting new dies on a regular basis to accommodate customer's requests.

In documents supplied to the ACCC, Nigel Rooney states that SAF and any of its Directors are not a shareholder or Shareholders, owner or Director of any of the listed businesses or companies.

In actual fact, a company search conducted on 21/03/2006 shows that **Linda Hewing**, (The maiden name of Nigel Rooney's wife) is shown as the Person Carrying on the business of Patrick Products.(see enclosed copy)

I understand that this has recently changed, and that Nigel Rooney in conjunction with a Sean Stenson (Manager of Patrick Products) has also commenced a Franchise Business in competition to Seal-A-Fridge Pty Ltd, under the Trading Name of **Kingseal**, which has the same marketing and Sales promotion as SAF.

- **In summary, I would like to confirm that RBM Plastic Extrusions Pty Ltd is an ISO 9002 Registered Company and as such are able to manufacture and supply both Flexible PVC Gasket Extrusion and Magnetic Strip used in the manufacture of refrigeration door seals, that conform to or exceed the original equipment manufacturers specifications.**

A number of Seal-A-Fridge Franchisees have contacted me expressing their concerns that the SAF Franchisor, (Nigel Rooney) is requesting to be excluded from Third Line Forcing, and I understand a Franchise Advisor **David Atchison** (Ph 07 5448 1774) located in the Gold Coast, is also acting on behalf of a number of SAF Franchisees.

All of the SAF Franchisees that have contacted me (some who do not currently purchase from RBM Plastics) have asked for our assistance to in preparing their objection to this exclusive dealing request from SAF and Rooney.

I hope that you have forwarded correspondence to all of the Seal-A-Fridge Franchisees, so as to get their opinion of this most unusual request.

The request from SAF, Nigel and Linda Rooney, seeks to promote anti competitive arrangements, which will discourages competition and efficiency in business, resulting in narrowing choice for consumers in price, quality and service.

I was of the understanding, that the Australian Competition and Consumer Commission were responsible for administering the Trade Practices Act 1974 to avoid the abovementioned from occurring.

If SAF, including Nigel and Linda Rooney are successful with their request, it will definitely result in a substantial lessening of competition.

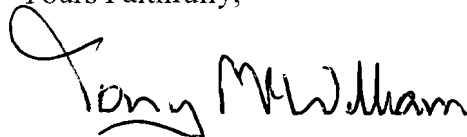
Comments:

- **There are no benefits for Seal-A-Fridge Franchisees if they are forced to purchase all of their Flexible PCV Gasket Profile and Magnetic Strip from Patrick Products (a company that was previously run by Nigel Rooney's wife)**
- **If they were to be bound by this regulation, Patrick Products would be able to increase the price or restrict supply of ingoing raw materials to any franchisee, restricting them from purchasing product from any other source, thus being in full control of their operations (this threat has already occurred with a number of Franchisees)**
- **SAF Master Franchiser through its exclusive dealings with Patrick Products would be in full control of all Seal-A-Fridge Franchise Outlets, controlling both wholesale and ultimately retail markets for replacement refrigeration seals.**
- **There would ultimately be a lessening of competition in the marketplace if all SAF Franchisees, were restricted to sourcing their Raw Materials from only one only one supplier.**

As indicated above, I would recommend you also request comments from **David Atcheson**, a specialist Franchisee Advisor who has been retained by a number of the Seal-A-Fridge Franchisees to act on their behalf.

If any further information is required please direct all enquiries to my attention.

Yours Faithfully,

A handwritten signature in black ink that reads "Tony McWilliam". The signature is written in a cursive, flowing style.

**AJ McWilliam
General Manager**



Quality
Endorsed
Company

CERTIFICATE OF REGISTRATION

RBM Plastic Extrusions Pty Ltd

ABN 64 000 464 960

32-40 Derby Street SILVERWATER NSW 2128 AUSTRALIA

complies with the requirements of

AS/NZS ISO 9001:2000

Quality management systems – Requirements

for the following capability

The registration covers the Quality Management System for the design and manufacture of extruded profiles and tubes from various polymers and the manufacture of flexible PVC compounds and coloured masterbatch for extrusion, moulding and electrical cable manufacturing.

Registered by:

SAI Global Limited (SAI Global) ABN 67 050 611 642 286 Sussex Street Sydney NSW 2000 Australia
Subject to the SAI Global Terms and Conditions for Certification. While all due care and skill was exercised in carrying out this assessment, SAI Global accepts responsibility only for proven negligence. This certificate remains the property of SAI Global and must be returned to SAI Global upon its request.

Originally certified to AS/NZS ISO 9002 on 4 August 1995

Certificate No.: QEC5656
Issue Date: 28 August 2004

Certified Date: 26 November 2003
Expiry Date: 04 August 2007

Alex Ezrakhovich
General Manager Certification
for and on behalf of
SAI Global Limited

Authorised Local Signatory, SAI Global



A division of SAI Global Limited
ABN 67 050 611 642



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21st August 2006

Att: Alan Ducret

ACCC

PO Box 10048

Adelaide Street Post Office

Brisbane 4000

Re: Nigel Rooney Master Franchisor of Seal-A-Fridge Group

Dear Alan,

We operate a Plastics Extrusion and Flexible PVC Compound manufacturing operation located in Silverwater, and extrude a wide range of profiles and tubing, from a variety of polymers.

One of the products we manufacture, is a range of refrigerator door gasket profiles, for use on domestic and commercial refrigerator door cabinets.

We commenced the manufacture of these door gasket profiles some twenty years ago, and have in the past, supplied gasket and gasket assemblies as original equipment, to the major refrigeration manufacturers in Australia.

We have produced many millions of dollars worth of refrigerator gasket to the major manufacturers located in Australia, including Rank, Hoover, Malleys, Email, Kelvinator, etc, and today continue to supply Electrolux, with their original equipment spare parts.

The manufacturers of these refrigeration cabinets require a consistent quality supply of product, and all of the products that we have supplied over the years, have been manufactured in accordance with their specifications.

Our company has also put in place a Quality System that conforms to, and has been audited by SAI Global, formerly Australian Standards Association (AS/NZS ISO 9001:2000)

Our Quality System was originally certified in 1995 to AS/NZS ISO 9002, and this Quality Management System was recently superseded by AS/NZS ISO 9001: 2000.

There is a Franchise business in operation, which specialises in the manufacture and supply of completed welded gasket assemblies, for aftermarket use that operates under the name of Seal-A-Fridge.

Nigel Rooney is the principal Franchisor for Seal-A-Fridge and is located on the Gold Coast in Queensland.

I understand that he has approximately 40 Seal-A-Fridge Franchisees, and is trying to enforce third line forcing, where the franchisee is being directed to purchase their ingoing raw materials from a specific company called Patrick Products, which Nigel Rooney is associated with.

From investigations we have carried out, it would appear that Nigel Rooney's wife is a registered business name, associated with Patrick Products.

She appears as the registered person carrying on the business of Patrick Products, under her maiden name of **Linda Hewing**.

There are a number of the Seal-A-Fridge franchisees, that have been purchasing both their Flexible PVC Gasket Profiles as well as their magnetic strip profiles, from RBM Plastic Extrusions Pty Ltd and they would like to continue to purchase from us.

RBM Plastic Extrusions Pty Ltd are able to manufacture and supply both PVC Refrigerator Gasket Profiles and Magnetic Strip that conform to the original equipment manufacturers specifications, as well as conforming to the specifications called for in the Seal-A-Fridge Product Sheet.

There exists a information Sheet published by the ACCC which states “ **Franchisors may impose quality standards upon franchisees. Franchisors can also nominate suppliers who meet these standards. However, franchisors can not prevent a franchisee from acquiring from a third party supplier, selected by the franchisee, if that supplier meets the standards that the franchisor has set**”

A number of Franchisees have complained to us, that they feel as though there has been undue pressure exerted on them by Nigel Rooney, to purchase their ingoing raw materials from Patrick Products.

We feel as though that if he is successful with his third line enforcing our company will be unfairly disadvantaged.

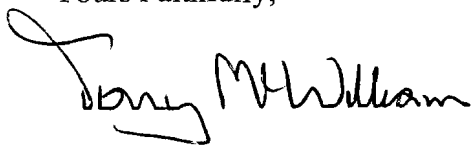
The purpose of this letter, is to ask the ACCC to investigate the actions of Nigel Rooney as a Master Franchisor of the Seal-A-Fridge Operation, and to have a closer look at how he is connected to Patrick Products, and more importantly ensure that he is not in breach of Third Line Enforcing.

If any further information is required, please direct all enquiries to my attention.

Contact details are as follows:

Nigel Rooney
Seal-A-Fridge
PO Box 12029
George Street
Brisbane 4003
Mobile Ph: 0418 250 240
Email < nigel@seal.com.au >

Yours Faithfully,



AJ McWilliam
General Manager

Business Name Extract For QLD For Organisation Number BN19718860

Business Name	PATRICK PRODUCTS
Registered Number	BN19718860
State	QLD
Business Status	REGISTERED
Date Registered	17/01/2006
Date Business Commenced	14/01/2006
Nature of Business	REFRIGERATION PARTS SUPPLIES
Renewal Date	17/01/2007

Principal Place of Business (CURRENT)

Address UNIT 8 17-25 GREG CHAPPELL DRIVE BURLEIGH HEADS QLD 4220 AUSTRALIA
Start Date 14/01/2006

Principal Place of Business (PREVIOUS)

None

Other Place(s) of Business (CURRENT)

None

Other Place(s) of Business (PREVIOUS)

None

Postal Address (CURRENT)

Address UNIT 8 17-25 GREG CHAPPELL DRIVE BURLEIGH HEADS QLD 4220 AUSTRALIA
Start Date 14/01/2006

Postal Address (PREVIOUS)

None

Person(s) Carrying on Business (CURRENT)

Name	HEWING, LINDA
Birth Address	MARRACKVILLE QUEENSLAND AUSTRALIA
Birth Date	14/11/1964
Current Address	UNIT 8 17-25 GREG CHAPPELL DRIVE BURLEIGH HEADS QLD 4220 AUSTRALIA
Start Date	14/01/2006

Person(s) Carrying on Business (PREVIOUS)

None.

Corporation(s) Carrying on Business (CURRENT)

None.

Corporation(s) Carrying on Business (PREVIOUS)

None.

Resident Agent(s) (CURRENT)

None.

Resident Agent(s) (PREVIOUS)

None.

Documents

None.

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End Of Search Report

Search generated on 21/03/2006 at 11:37
