

**UNDERTAKINGS TO THE TRADE PRACTICES COMMISSION GIVEN
PURSUANT TO SECTION 87B**

By

THE PHARMACY GUILD OF AUSTRALIA

And

BARRY R SCHULTZ

And

HUMPHREY GEORGE

A. Background

1. The Pharmacy Guild of Australia (the "Guild") organised and held two meetings in Adelaide on 21 and 22 February 1994, which were attended by approximately 85 members of the Guild.
2. The meetings were conducted by Mr Barry R Schultz and Mr Humphrey George. Mr Schultz is Chairman of the Guild's Tax and Trading Parity Committee and Mr George is a member of that Committee as well as being President of the South Australian Branch of the Guild.
3. At each of the meetings, there was a discussion as to the action which might be taken by individual members to protest against certain pharmaceutical companies that Guild members considered were unfairly discriminating in terms of price against members of the Guild. One suggestion made by the members and discussed at the meetings was that they consider deferring the placing of their winter parcel buys with any pharmaceutical manufacturer (other than Wellcome or Alphapharm) for about two months.
4. The Trade Practices Commission ("TPC") considers that these meetings resulted in a contract, arrangement or understanding between some members of the Guild that contained an exclusionary provision in breach of section 45(2) of the Trade Practices Act 1974.
5. The TPC also considers that the Guild and Messrs Schultz and George were parties to the alleged contract, arrangement or understanding or were otherwise involved in the alleged contravention of the Act.
6. After being advised of the TPC's concerns, the Guild and Messrs Schultz and George have agreed to give the following undertakings to the TPC pursuant to section 87B of the Trade Practices Act 1974.

B. Undertakings by the Guild

For the purpose of section 87B of the Trade Practices Act 1974, the Guild hereby undertakes to the TPC as follows:

1. The Guild will not give effect to any contract, arrangement or understanding which the Commission alleges may have arisen from the meetings on 21 and 22 February 1994 and which may have involved the deferral by members of the Guild of their placement of orders with one or more pharmaceutical companies.
2. The Guild will not, within the next 3 years, make or give effect to, or be in any way involved in, any contract, arrangement or understanding which contains an exclusionary provision in contravention of section 45 of the Trade Practices Act.
3. The Guild will develop and implement within 12 months, a trade practices education and training program designed to ensure that all executives and members of the Guild are made aware of their, and of the Guild's, responsibilities under the Trade Practices Act 1974. This program will comprise the following elements:
 - (a) the provision of seminars, the aim of which is to provide trade practices training for all national and state executives of the Guild;
 - (b) the preparation of a short brochure to be provided to all national and state executives of the Guild, summarising the principal prohibitions relevant to the pharmaceutical industry contained in the Trade Practices Act 1974;
 - (c) the publication of articles in relevant Guild and pharmacy publications, aimed at educating pharmacists as to the conduct proscribed by the Trade Practices Act 1974;
 - (d) the organisation of trade practices presentations at appropriate Guild conferences and executive meetings; and
 - (e) participation by national and state executives of the Guild in the Trade Practices Commission's "Best and Fairest" Training Package.
4. The Guild will provide a report signed by its Executive Director, on or before 1 October 1995, reporting upon the measures taken by the Guild to comply with the above undertaking in paragraph 3.

C. Undertakings by Mr Schultz

For the purposes of section 87B of the Trade Practices Act 1974, Barry R Schultz hereby undertakes to the TPC as follows:

1. Mr Schultz will not give effect to any contract, arrangement, or understanding which the Commission alleges may have arisen from the meetings on 21 and 22 February 1994 and which may have involved the deferral by members of the Guild of their placement of orders with one or more pharmaceutical companies.
2. Mr Schultz will not, within the next 3 years, make or give effect to, or be in any way involved in, any contract, arrangement or understanding which contains an exclusionary provision in contravention of section 45 of the Trade Practices Act 1974.
3. Mr Schultz will participate in the trade practices education and training program developed and implemented by the Guild pursuant to paragraph B3 above.

D. Undertakings by Mr George

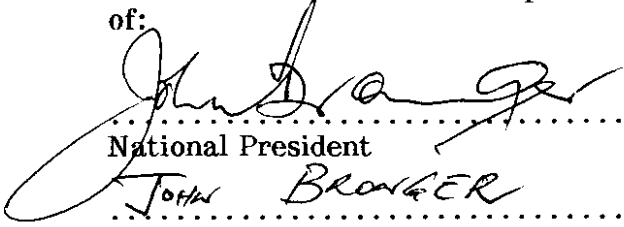
1. Mr George will not give effect to any contract, arrangement, or understanding which the Commission alleges may have arisen from the meetings on 21 and 22 February 1994 and which may have involved the deferral by members of the Guild of their placement of orders with one or more pharmaceutical companies.
2. Mr George will not, within the next 3 years, make or give effect to, or be in any way involved in, any contract, arrangement or understanding which contains an exclusionary provision in contravention of section 45 of the Trade Practices Act 1974.
3. Mr George will participate in the trade practices education and training program developed and implemented by the Guild pursuant to paragraph B3 above.

E. Acknowledgements

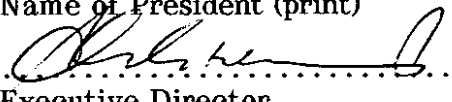
1. The Guild and Messrs Schultz and George acknowledge that this document will be placed on the TPC's public register and agree that the TPC may otherwise publish and refer to this document at its discretion.
2. The Guild and Messrs Schultz and George also note that these undertakings in no way derogate from the rights or remedies available to any third party.

EXECUTED as an agreement

THE COMMON SEAL of THE)
PHARMACY GUILD OF AUSTRALIA)
was hereunto affixed by authority of)
its National Executive in the presence)
of:


.....)
National President)

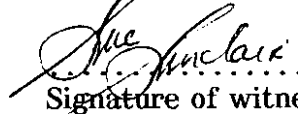
JOHN BRONGER)
.....)
Name of President (print))


.....)
Executive Director)

STEPHEN GREENWOOD)
.....)
Name of Executive Director (print))

In witness of these undertakings.

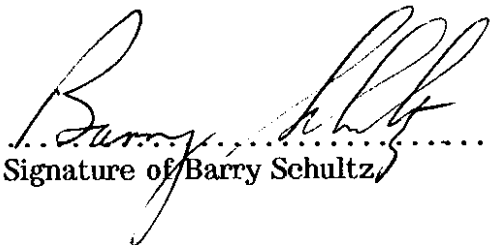
SIGNED by BARRY R SCHULTZ in)
the presence of:)


.....)
Signature of witness)


SUSAN E. SINCLAIR.....)
Name of witness (block letters))

6 HENDER ROAD, PORT LINCOLN 5606)
.....)
Address of witness)

SECRETARY.....)
Occupation of witness)


.....)
Signature of Barry Schultz)

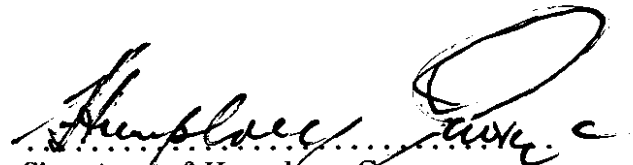
SIGNED by HUMPHREY GEORGE in)
the presence of:)

..... )
Signature of witness)

..... C. BRADSHAW)
Name of witness (block letters))

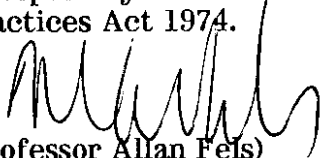
..... 2/3 GEORGE ST., CLARENCE)
Address of witness PARK.)

..... BRANCH DIRECTOR)
Occupation of witness)


Signature of Humphrey George

Date: 13TH FEBRUARY 1995

Accepted by the Trade Practices Commission pursuant to section 87B of the Trade Practices Act 1974.


(Professor Allan Fels)
Chairman

Dated: 10 MARCH 1995