

**TRADE PRACTICES ACT 1974****UNDERTAKINGS TO THE TRADE PRACTICES COMMISSION GIVEN FOR THE  
PURPOSES OF SECTION 87B****BY****DONALD JAMES SCOTT FINLAY OF 18 WANDEEN ROAD, CLAREVILLE IN THE  
STATE OF NEW SOUTH WALES****BACKGROUND**

Donald James Scott Finlay ("Finlay") is a director and shareholder of Buyers Network International Pty Limited (ACN 055 192 679) which is a company duly incorporated in the State of New South Wales. Buyers Network has advertised for sale and has sold a product known as the Proofreading Book ("the Proofreader") to consumers. The Book is a self-teaching guide to proofreading symbols and conventions, and contains information on various aspects of proofreading work.

Buyers Network placed a series of advertisements in newspapers and magazines with national circulation between October 1994 and May 1995. Those advertisements related to the sale of the Proofreader. Those advertisements contained representations as to the availability of freelance proofreading employment or work, income, profitability and the quantity of study and experience necessary to gain work as a freelance proofreader in Australia and overseas which could be achieved by the use of the Proofreader.

A copy of the advertisement is included in these undertakings as Attachment A.

The Trade Practices Commission ("the Commission") has written to Buyers Network informing it that the Commission believes that the advertisements were in breach of Sections 52, 53(a), 53(c), 53(f) and 59 of the *Trade Practices Act 1974* ("the Act").

The Commission has stated that it considers Buyers Network and its director, Finlay made false and misleading representations about the availability of freelance proofreading employment or work, the income and profitability of such work, and the quantity of study and experience necessary in order to be able to obtain such work. The Commission further stated its opinion that Buyers Network and Finlay did not have reasonable grounds for making these statements as they had conducted no inquiries in the Australian proofreading market as to the availability or profitability of freelance proofreading work, the amount of study or experience necessary to obtain such work nor the extent to which the British Standards Institute system of proofreading, which is taught in the Proofreader, is used in Australia.

Since this matter has been raised by the Commission with Finlay in his capacity as director of Buyers Network, Buyers Network has discontinued advertising the Proofreader.

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As part of these undertakings offered to the Commission, Finlay will institute a formalised procedure to deal with complaints which may be made by customers who have purchased the Proofreader and has instructed staff to offer any such customers a full refund in respect of the Proofreader if customers wish a refund to be paid to them. This refund will include the purchase price of the Proofreader, the original postage and handling, and the cost of postage to return the Proofreader to Buyers Network. In addition to so instructing staff, Buyers Network will also appoint a Complaints Officer.

## UNDERTAKINGS

Finlay undertakes for the purposes of Section 87B of the Act that:

1. He will not by himself, his servants, agents or otherwise howsoever advertise, arrange or procure to advertise any product which involves representations with respect to employment, income or profitability where Finlay has not undertaken investigations which indicate that he has reasonable grounds to make such representations to avoid such representations being misleading.
2. Finlay will not by himself, his servants, agents or otherwise howsoever supply, arrange for the supply or offer to supply any product which contains representations with respect to employment, income or profitability in circumstances where Finlay has not undertaken investigations to give him reasonable grounds for making the representations in relation to the product to avoid such representations being misleading.
3. Finlay undertakes to guarantee the refunds offered to purchasers of the Proofreader referred to in the Undertaking of Buyers Network International Pty Limited (ACN 055 192 679) in the event that Buyers Network is unable to provide any or all of these refunds, or any part thereof.
4. Finlay will within two (2) months of signing this undertaking, develop for consideration by the Commission a Trade Practices Compliance Program for himself with the following characteristics:

(a) Aim

To prevent so far as is reasonably possible any contravention of the Act by Finlay, his servants, agents or employees.

(b) Policy

The formal adoption or re-affirmation by Finlay of a policy of strict compliance with both the letter and the spirit of the Act.

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(c) Compliance Infrastructure

The creation by Finlay of a suitable auditing and referral procedure in respect of any business in which he is a director or shareholder, to enable potential trade practices problems to be identified and dealt with appropriately.

(d) Coverage

The Compliance Program is to cover Finlay and all of his employees and agents whose duties could result in them being concerned in conduct that might breach the Act ("relevant staff").

(e) Education

The development and implementation of an education program calculated to have the relevant staff conversant with the provisions of the Act to a level where:

(i) general staff can avoid the obvious contraventions and can identify more complex potential trade practices problems for referral to the appropriate person nominated by Finlay;

(ii) Finlay and his employees and agents with responsibilities within any business in which Finlay is interested can effectively carry out those responsibilities.

5. The Trade Practices Compliance Program referred to in Undertaking 4 is to be implemented by Finlay within one (1) month of approval having been given by the Commission as to its form and content.

6. Finlay will use his best endeavours to ensure that any business in which he is a director or shareholder will strengthen its Complaints Handling system by:

(a) Adopting a complaints handling system that complies with Australian Standard AS 4269 - 1995 (Complaints handling);

(b) appointing a Customer Complaints Manager and supplying his/her name to the Commission within a reasonable time;

(c) taking all reasonable steps to ensure that all present and future relevant staff notify the Customer Complaints Manager of complaints received from consumers regarding products sold or offered for sale through any such business;

(d) take all reasonable steps to ensure that any such business, its directors, employees and agents, will attempt to resolve such complaints to the satisfaction of consumers as soon as possible;

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- (e) taking all reasonable steps to ensure that any such business, its directors, employees and agents notify the Customer Complaints Manager whether or not a complaint has been resolved and if not, why not;
  - (f) maintaining a record of complaints and the outcome of such complaints and classifying and analysing complaints received in order to allow for the identification and rectification of systematic and recurring problems.
7. At the end of each twelve (12) month period following the signing of this undertaking, until the third anniversary of the signing of the undertaking, Finlay will cause an independent auditor (who shall be an independent accountant or solicitor approved by the Commission) to review and report on:
- (a) Finlay's compliance with these undertakings over the preceding 12 months;
  - (b) the implementation of the trade practices compliance program and the achievement of its objectives over the preceding 12 months; and
  - (c) any recommended changes to the trade practices compliance program that may be necessary to ensure achievement of its objectives.
- Finlay will cause the independent auditor to complete the review and to provide a copy of his or her report to Finlay and to the Commission within twenty one (21) days of the end of each 12 month period.
8. For twelve (12) months from the date of signing this undertaking, Finlay will have his advertisements checked every three (3) months by a suitably qualified legal adviser with a view to ensuring that any use Finlay might make of representations concerning employment, income or profitability can be justified and are accurate statements.

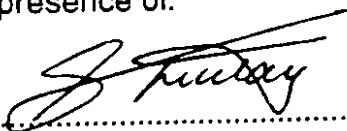
## **ACKNOWLEDGMENTS**

In addition to giving these undertakings, Finlay acknowledges and accepts that these undertakings will be placed on the Commission's Public Register and agrees that the Commission may otherwise publish and refer to this document at its discretion.

Finlay also acknowledges that these undertakings in no way derogate from the rights or remedies available to any other person arising from the alleged conduct.

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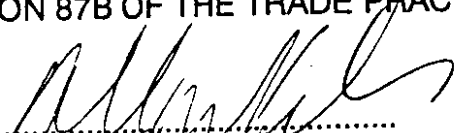
IN WITNESS OF THESE UNDERTAKINGS  
AND ITS AGREEMENT SIGNED BY THE  
SAID DONALD JAMES SCOTT FINLAY in  
the presence of:

  
.....

  
.....

Dated the *18<sup>th</sup>* day of *October* 1995.

ACCEPTED BY THE TRADE PRACTICES COMMISSION PURSUANT TO  
SECTION 87B OF THE TRADE PRACTICES ACT 1974.

  
.....  
Professor Allan Fels  
Chairman

Dated the *29* day of *October* 1995.

## ATTACHMENT A

APPROVED FORM OF THE REFUND LETTER FOR THE PURPOSES OF  
UNDERTAKINGS BY:  
DONALD JAMES SCOTT FINLAY  
&  
BUYERS NETWORK INTERNATIONAL PTY LIMITED

[WILLOW TREE PRESS LETTERHEAD]

### IMPORTANT NOTICE

Dear Proofreader Purchaser,

We are writing to you with regard to your recent purchase from us of the Proofreading Course.

This letter is being written at the direction of the Trade Practices Commission.

We wish to apologise deeply for the fact that there isn't the amount of this type of work available that we represented. Further, the hourly rate of pay for this type of work is not as high as we stated in our advertisements.

The publishers listed in the back of the Proofreading Course have requested that their names be removed from the book. There is now no benefit in contacting these publishers.

We sincerely apologise for this situation and we are offering a full refund to all purchasers of the Proofreading Course. This refund includes the \$19.95 purchase price, the \$5.95 postage and handling fee, and the cost of your postage to send the Proofreading Course back to us.

We wish to remind you that we offer a 365 day money back guarantee on all of our products and because of the problem that has arisen that 365 day period would commence from the date you receive this letter and not the date you purchased the Proofreading Course. To claim your refund, all you need to do is let us know, and we will send you a full refund within 6 weeks.

To try and make up for any disappointment that we have caused, we are offering you a \$5 discount on any product you see advertised by Willow Tree Press at any time in the future. All you need to do when ordering is to quote the number at the bottom of this page.

[signature and reference numbers]

## ATTACHMENT B

# BECOME A PROOFREADER

IMPROVE YOUR INCOME EASILY  
AND QUICKLY.

Joan Harwell is the pen-name of a well known business writer. She has been a freelance writer and copy-editor for many years. She works for a number of major publishing houses.

Recently some of her clients told her of the difficulty they experienced in finding proofreaders. As we all know the torrent of books published is growing all the time - so - there is an ever increasing demand for proofreaders and copy editors. Joan knows from us and from many contacts with publishers that freelancers play an increasingly important role. Publishers agree that this is a cost-effective and efficient way of getting services they need at greatly reduced overhead costs. The proofreader is still very well paid, so everyone gains. After talking to her friends in the business, she decided, based on her own experience,

to produce a guide for people who would enjoy this work. Joan says, "this service is readily operated from home so it does not involve costly and crippling overheads. *Ready money is easily produced to help with household bills and pay for extra holidays.*" You can easily find yourself earning up to \$80.00 in a single hour just for reading and correcting a small piece of copy.

This guide shows how, and it includes the following:-

- Typographic Conventions.
- What the proofreader needs to do.
- Using the BSI system.
- List of books, societies and publishers.
- How to obtain work in many countries (The world is your oyster).
- How a manuscript is prepared.
- The management of your business.
- How to charge your time so that you get the biggest dollar.
- How to approach Printers

and Publishers of every size.

- Age or sex no barrier to earning a substantial income.
- A series of self assessment exercises carefully graded.
- All technical guidance and know-how you need.
- Start earning even before you have read the whole book!

Speaking again, Joan says, "you'll be amazed at the warm welcome you will receive when contacting the thousands of printers and publishers who need your help".

To receive a copy, simply write your name and address on a piece of paper and send it together with a cheque or money order (or together with your credit card number and expiry date) for \$19.95 (plus \$5.95 shipping and handling) - Total \$25.90 - To Willow Tree Press, Dept PROOF 609, 55 Avalon Parade, Avalon, N.S.W. 2107.

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