



ASSURANCE
Fair Trading Act 1987
Section 79

Assurance to the Commissioner for Consumer Affairs given for the purposes of s79 of the *Fair Trading Act 1987* by:

Madore Pty Ltd (ACN 055 625 039) trading as First Choice Verandahs and Carports and Andrew Mark Box

1. PERSONS GIVING THIS ASSURANCE

1.1. This Assurance is given to the Commissioner for Consumer Affairs (**the Commissioner**) by Madore Pty Ltd trading as First Choice Verandahs and Carports in the State of South Australia and its sole Director Andrew Mark Box for the purposes of section 79 of the *Fair Trading Act 1987*.

2. BACKGROUND

- 2.1. Madore Pty Ltd (ACN 055 625 039) (**Madore Pty Ltd**), is a proprietary company limited by shares.
- 2.2. At all material times Madore Pty Ltd held a licence authorising it to contract for particular categories of building work within South Australia.
- 2.3. At all material times Mr Andrew Mark Box (**Mr Box**) was the sole Director of Madore Pty Ltd.
- 2.4. Section 34(a) of the *Building Work Contractor's Act 1995* (**the BWC Act**) requires that in the case of domestic building work, that is not minor domestic building work, and for which development approval is required, a building work contractor must ensure a policy of insurance complying with Division 3 of the BWC Act, is in force prior to performing the building work.

3. CONDUCT OF CONCERN

- 3.1. Between 7 April 2017 and 24 April 2018 (the relevant period), Madore Pty Ltd contracted for and performed domestic building work that required development approval (namely construction of pergolas, verandahs and carports), at numerous locations within South Australia, without obtaining a policy of insurance as required under Division 3 of the BWC Act.
- 3.2. During the relevant period, Madore Pty Ltd routinely understated the value of building work contracts to below the \$12,000 minor domestic building work threshold prescribed by regulation, when submitting development approval applications to South Australian local governments.

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4. CONTRAVENTIONS

As a result of the matters outlined above, the Commissioner considers, and Madore Pty Ltd acknowledges that it has:

- 4.1. Performed domestic building work within South Australia, without a policy of insurance complying with Division 3 of the BWC Act in force, in contravention of section 34(a) of the BWC Act.

As a result of the matters outlined above, the Commissioner considers, and Mr Box acknowledges that as sole director, he has:

- 4.2. Aided, abetted, counselled or procured Madore Pty Ltd to performed domestic building work in South Australia, without obtaining a policy of insurance as required under Division 3 of the BWC Act, in contravention of section 34(a) of the BWC Act.

5. COMMENCEMENT OF ASSURANCE

This Assurance comes into effect when:

- 5.1 The Assurance is executed by Madore Pty Ltd;
- 5.2 The Assurance is executed by Mr Box; and
- 5.3 The Commissioner for Consumer Affairs accepts the assurance so executed.

6. ASSURANCE BY MADORE PTY LTD AND MR BOX GIVEN FOR THE PURPOSES OF SECTION 79 OF THE FAIR TRADING ACT 1987

In response to the concerns raised by CBS on behalf of the Commissioner for Consumer Affairs, Madore Pty Ltd and Mr Box hereby provide an Assurance to the Commissioner that:

- 6.1 Madore Pty Ltd will not perform domestic building work, to which Division 3 of the BWC Act applies, unless a policy of insurance that complies with Division 3 of the BWC Act is in force in relation to that building work.
- 6.2 Mr Box will not aid, abet, counsel or procure Madore Pty Ltd to perform domestic building work, to which Division 3 of the BWC Act applies, unless a policy of insurance that complies with Division 3 of the BWC Act in relation to that building work is in force.
- 6.3 Madore Pty Ltd will ensure the contract value is accurately stated on development applications that it submits to South Australian local governments.

7. ACKNOWLEDGMENTS

Madore Pty Ltd and Mr Box acknowledge that:

- 7.1. It is an offence to breach an Assurance, as set out in section 81 of the *Fair Trading Act 1987*.
- 7.2. CBS will make this Assurance publicly available including by publishing it on CBS' public register of undertakings on its website.

7.3. This Assurance in no way derogates from the rights and remedies available to any other person arising from the alleged conduct.

7.4. This Assurance may be produced to any Court in respect of any proceedings alleging any future contraventions of the *Fair Trading Act 1987* or a related Act.


EXECUTED BY Madore Pty Ltd by its authorised officer pursuant to section 127(1) of the *Corporations Act 2001* (Cth) and by Andrew Mark Box in his personal capacity as sole director of Madore Pty Ltd


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Mr Andrew Mark Box

Director/Secretary of Madore Pty Ltd

Date: 14-5-19


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Signature of Witness

Witness name: CHIARA JALDIN

Accepted by the Commissioner for Consumer Affairs (SA) pursuant to s79 of the *Fair Trading Act 1987*


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Commissioner for Consumer Affairs (SA)

Date: 11/6/19