

Saturday, 14th March 2009

CONSUMER RIGHTS TAKE A STAND IN COURT

Consumer rights have had a win in South Australia's courts last year with the Office of Consumer and Business Affairs (OCBA) taking action in 32 matters against dodgy traders.

Minister for Consumer Affairs Gail Gago says details of the year's prosecutions coincide with tomorrow's World Consumer Rights Day – showing we're standing up for consumer rights.

“These prosecutions show that dodgy traders will be caught out and pursued,” says Ms Gago.

“The high level of demand for people to perform building, renovating and repair work has attracted some cowboys to the industry and OCBA has taken a range of approaches to deal with the antics of those who flout fair trading and related laws.”

Of the 32 court matters resolved last year 18 related to breaches by builders and tradespeople, and 14 of these related to unlicensed activity.

“OCBA takes unlicensed building and trades activity very seriously because in many cases consumers end up with botched jobs and a string of other problems,” says the Minister.

During 2008 OCBA went to significant effort to rein in the activities of a serial unlicensed builder who left customers out of pocket or with substandard and unfinished building work. He received a suspended prison sentence for continuing to trade without a builders licence in contempt of an interim injunction. The District Court also barred the unlicensed builder from acting as a building work contractor. As a further step to protect consumers, a public warning was issued to alert consumers to this rogue's history.

Other breaches by builders and tradespeople that were dealt with by the Courts include: performing electrical work that did not comply with wiring rules; failing to take out indemnity insurance; not having or supplying the consumer with a written contract; demanding excessive deposits and taking unjustified progress payments.

Court action was also taken against:

- Four car dealers - three of which were unlicensed and the fourth misrepresented the number of kilometres that vehicles had actually travelled.
- Five security agents following convictions of prescribed offences or for failing to disclose criminal convictions.
- Three land agents, including one who used funds from a client's trust account to purchase items for himself including a motorcycle.

- Two traders for operating under an unregistered business name.

Of all the court matters resolved in 2008 the outcomes include convictions, a suspended prison sentence, fines of up to \$40,000, permanent cancellation of licences and orders to perform community service.

The breaches that led to the court proceedings were detected during OCBA's monitoring activities as well as investigating reports from members of the public of unlawful activity.

Other 2008 enforcement outcomes for suspected breaches include:

- Receiving 30 assurances from traders, where they have stated in writing that they will refrain from particular unlawful activity. The assurances register is publicly available on the OCBA website.
- Issuing four expiation notices: three to land agents for advertising material not including the agent's registration details; and a fourth to a second-hand vehicle dealer for not making the correct information available on the schedule.
- Sending hundreds of warning letters to traders for conduct ranging from unlicensed activity, operating without a registered business name, real estate agents not giving the required information notice to buyers, and builders demanding payment for work not yet completed.

Minister Gago said "These enforcement results should send a message to the community that breaches of legislation will be taken very seriously and in many cases will result in a penalty. A record of the breach may also be publicly available if it has been proven in the courts or if a written assurance has been provided."

Members of the public are encouraged to report any suspected breaches of fair trading or licensing laws to OCBA on 8204 9777 or 131 882 for country callers.