

INTERVENTION ORDER APPLICATION AT DANDENONG MAGISTRATES COURT, MAY 14 2003

Applicant: Alex Money, Defendant: Damien Codognotto

SUMMARY BY MAGISTRATE HARBER

"In this matter, I have to be satisfied on balance, of course, that stalking has taken place and there is a likelihood that it will take place in the future.

Stalking, as defined by the Supreme Court, is basically a course of conduct, which is intended to put a person in physical fear or fear for their mental well-being and there are certain qualifications to that and that there is an intention of the person carrying out the conduct to achieve those various aims, or one of the aims.

In relation to the evidence, I have no hesitation in accepting, by and large, the evidence of Mr. Money. I have found him to be an honest, accurate and believable witness in this Court. In summary, what his evidence suggests and I accept this, that firstly on achieving the status of President of this association, and I must say in parenthesis, that I do not buy in, in **any** way, to the disputes that are going on in this association, that is not what stalking is about and it is not designed to settle disputes in this association, but having achieved the level of President, which I am sure he now regrets, firstly he has been **inundated** in both September and October, by a total of 125 faxes. Now, while the Court accepts that as President of an association, one should expect to receive communications from interested members, 125 faxes in two months borders on harassment, in my view.

He indicates, that is Mr. Money indicates that he requested the defendant to stop that inundation. It was not stopped until he put a block on his e-mails and that the defendant concedes, as I understood his evidence, that at best, in February he had Mr. Money's name removed from his e-mail list.

In November, at the Quarterly General Meeting, Mr. Money says, and I accept that the defendant takes him aside and says, 'Don't ever get me off-side, you will regret it for the rest of your life' – That is a clear threat and I accept it as such, as indeed did Mr. Money.

On March 18, at a heated meeting, and if it remained a heated meeting, this Court would not be concerned about **internal** politics, **internal** heat. **Internal** discussions of these types of organisations, this Court is not concerned about. It went far further than that, in my view. I am quite satisfied, on the evidence of both Mr. Money, Miss Kerridge, Mr Gomperts and Mr Lange, that Mr. Codognotto, albeit as he says, he momentarily regrets things that he said, I am quite satisfied that he, in colloquial terms, 'Got into the face' of Mr. Money and **clearly** and **deliberately** threatened him with an assault **outside**, and he was constantly requesting Mr. Money to '**Go** outside and be **dealt** with'. That is a **clear, present threat** to Mr. Money and in the light of both the inundation of faxes, the phone calls, whether there were two or whether there were more than two, this Court is not able to say, but it was something that was not desired by Mr. Money. In the clear light of the threat in November, the threats in March were clearly an on-going course of conduct that Mr Codognotto was directing at Mr Money, that put Mr. Money clearly **in fear**, understandably so, and it was quite Mr. Codognotto's intention to put him in fear.

All the grounds for making an Order in this Case are therefore satisfied, I propose to make an Order, I propose to make an Order that lasts for 12 months, prohibiting Mr. Codognotto from stalking, assaulting, harassing, threatening, or intimidating Mr. Money, attending at his premises, or having any further contact of **any sort** with Mr. Money. As I say, they will last for 12 months, and I have got to warn you, Mr. Codognotto, that if you breach these orders, there is up to two years imprisonment and/or \$24,000.00 in fines."

Magistrate: "One question, and one question only"

Mr. Codognotto: "Your Worship, May I still continue my duties at VicRoads, I've got er.....?"

Magistrate: "You can do whatever you like in this community, Mr. Codognotto, but you are to have no further contact with Mr. Money."

Mr. Codognotto: "That requires me going to MRA meetings....."

Magistrate: "Absolutely, and you can, as indeed can Mr. Money, there is no need for you to speak to him, to converse with him, to be in his face intentionally.

That's it gentlemen, thank you, you can wait outside, I'll see that copies of those orders are brought outside in a moment."