

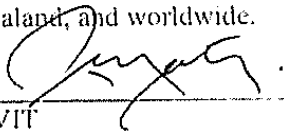
First Applicant: **PETER HEGARTY**
AND
Second Applicant: **READY FLOWERS PTY LTD**
(ACN 115 489 480)
AND
Respondent: **GORDON CRAVEN**

AFFIDAVIT

I, **Peter Ross Hegarty**, of C/- Hawkins Christie, G. 168 Stirling Highway, Nedlands, in the state of Western Australia, company director, state on oath:

1. I am a First Applicant.
2. I am also a director of the Second Applicant, Ready Flowers Pty Ltd (RFPL), and am duly authorised to swear this affidavit of behalf of RFPL.
3. I swear this affidavit in support of my application, and that of RFPL, for injunctive relief against the Respondent, Gordon Craven (Mr Craven).
4. This proceeding concerns the persistent publication of material by Mr Craven which is defamatory and otherwise harmful to my reputation and that of RFPL. The material published (which is detailed below) is in connection with a business known (and in this affidavit referred to) as the Ready Flowers business.
5. The Ready Flowers business operates through a number of websites and registered domain names. One particular website is that maintained at the URL www.readyflowers.com.au (the Ready Flowers Website) which uses the domain readyflowers.com.au.
6. The Ready Flowers business procures contracts for the provision of consumer orders for flower arrangements which are in turn delivered in Australia, New Zealand, and worldwide.

Signed:



Taken by:



AFFIDAVIT
Filed on Behalf of the Plaintiffs
Form 46, Version 1
Uniform Civil Procedure Rules 1999
Rule 431

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PAGES 2 to 6 REDACTED

42. To that end, "Exhibit 21" hereto is a true copy of RFPL's solicitors' letter dated 19 January 2016 to Mr Craven which encloses by way of service:
- (a) a copy of the Certificate of Taxation dated 9 December 2015 which had been duly registered in the Magistrates Court of Gympie on 18 December 2015;
 - (b) a Statement of Financial Position for Mr Craven to complete and return same so as to advise RFPL the status of Mr Craven's financial state of affairs.
43. RFPL's solicitor's efforts to recover the amount of the Jarrett J costs order are ongoing.

Balance of Convenience

44. I am aware from my involvement in the Ready Flowers Business of the defamatory remarks published by Mr Craven on the Craven Website.
45. There are two very significant days per year to the Ready Flowers Business; being Valentine's Day and Mother's Day. The Ready Flowers Business will make at least 25% of its yearly turnover from the trade conducted over those 2 days.
46. From my review of the complaints which Mr Craven aggregates to the Craven Website readyflowersreview.hk, I am aware that Mr Craven re-enlivened activity to the site in mid-January 2016. I am aware of these changes because I periodically monitor (at the moment as often as weekly) the website online and have internet changes monitoring tools; such as changedetection.com, in relation to the site.
47. In late December 2015, RFPL and I were attempting to serve Mr Craven with defamation proceedings in District Court proceedings number 4806/15, which I am a Plaintiff in, concerning defamatory statements he made on a website Cooroy.net. I believe that event, combined with the recovery actions being taken by RFPL concerning the Jarrett J Costs Order mentioned in paragraph 41 above on 19 January 2016, have spurred Mr Craven to activity now.
48. This is historically the pattern of Mr Craven's activity. In September 2013 Mr Craven lost in the decision delivered by Jarrett J on 25 September 2013, the Ready Flowers Business suffered approximately a 20% drop in Valentine's Day trade activity. I am aware from my long standing involvement in the Ready Flowers Business that this is the trading pattern for the florist business. I am aware of the estimated percentages in the drop in sales because of my involvement in the Call Centre business I run to support the Ready Flowers Business (whose revenue is directly linked to the Ready Flowers Business turnover). I have in the past analysed troughs in trade from year to year and the only explanation which is plausible is the level of online activity which Mr Craven exhibits in the lead up to those occasions.
49. I am aware that Mr Craven's activities are being noticed and accessed on the internet. I have not kept records, however, I often gets calls from supplier florists questioning the content Mr Craven publishes online.

Call Centre
business I run




20% drop in
VD trade



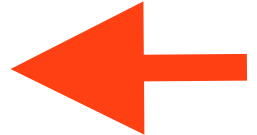
long standing
involvement

Signed: 

Taken by: 

50. Recently, in the last 4 weeks, I received a call from a Perth supplier who questioned me as to what Mr Craven's publications on readyflowerreview.hk specifically were about. I would prefer not to name that supplier here because Mr Craven has in the past vilified suppliers on learning who they are in an attempt to get them to stop supplying to Ready Flowers. One such supplier was Liz Smith of A sculpted Leaf and "Exhibit 22" to this affidavit is a true copy of emails which Mr Craven exchanged with Ms Smith concerning Ready Flowers Pty Ltd.
51. As part of expansion plans I have for my business activities together with the Ready Flowers Business, my son Tom and I were speaking to a consultant with Don Graham of Business Nav in early 2015 in respect of raising Private Equity to finance expansion strategies of the businesses. Business Nav were retained to prepare an information memorandum for presentation to potential private investors. During that process, Mr Graham raised with me that he had discovered the material published by Mr Craven on the internet, including that on readyflowersreview.hk and believed it would be problematic in attracting investors.
52. Mr Craven, having owned and operated a flower business himself prior to his bankruptcy called Penny's Flowers Pty Ltd, and a competitor to the Ready Flowers Business, is aware of how damaging this activity is and the importance of Valentine's Day and Mother's Day trade.
53. I believe Mr Craven has re-invigorated his online efforts seen recently on the Craven Website to again impact on the Ready Flowers Business trade on the said days.
54. I am aware from conducting google searches myself that a search of "Ready Flowers Review" brings up the Craven Website (being readyflowersreview.hk) on the first page, usually the sixth entry down. The entry is headed "ORDER FLOWERS WITH READY FLOWERS AT YOUR OWN PERIL,..."
55. As deposed to in the above, I have continued involvement in the Ready Flowers Business operated by RFL and generate income from that involvement.
56. Accordingly, in circumstances where the publications made by Mr Craven at the Craven Website are continually read by customers and potential customers of the Ready Flowers Business, those publications cause both RFL, RFPL and myself (by reason that it's associated businesses) loss and damage and will continue to cause loss in damage in the form of damage to its business reputation.
57. I am informed by my solicitors that I will be unable to determine how many times the Craven Website has been viewed until I am in a position to obtain weblogs from the host provider.
58. In the premises, the Applicants seek that the Court issue an injunction against Mr Craven concerning the matters published at readyflowersreview.hk and that the site be disabled from access to the public or the google search engine until determination of this proceeding.

generate
income



Signed:

Handwritten signature of the deponent.

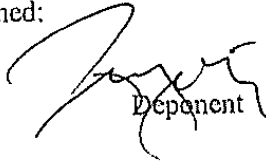
Taken by:


Handwritten signature of the deponent.

59. I have provided instructions to my solicitors to commence proceedings by an Originating Application given the urgency of the matter. If required, I will provide instructions to file and serve a statement of claim.
60. I also provide the usual undertaking as to damages to the Respondent in respect of the granting of the injunction pursued in this application.
61. All the facts and circumstances herein deposed to are within my own knowledge save such as are deposed to from information only and my means of knowledge and sources of information appear on the face of this my affidavit.

Sworn by Peter Ross Hegarty on 4th February 2016 at LAPU-LAPU CITY in the presence of: PHILIPPINES

Signed:


Deponent


ATTY. ROLDAN M. PEPITO
NOTARY PUBLIC FOR City of Lapu-Lapu
My Notarial Commission No. 3065 is valid until 12/31/2017
277 Ch. Lapu-Lapu City, Cebu 6010
IBP No. 1039530112 in Cebu City
PTR No. 528506 01 in Lapu-Lapu City
Roll of Attorney's No. 47719
MCE Compliance No. V-0005420 01.03.15
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